## United States Court of Appeals for the Second Circuit



**APPENDIX** 

# ORIGINAL 7E-IIIII

#### United States Court of Appeals For the Second Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appeller

-against-

ERNST OLSEN.

Defendant-Appellant.

On Appeal From The United States District Court For The Southern District of New York

Appellant's Appendix

IRVING KATCHER
Attorney for Appellant
38 Park Row
New York, N.Y.



PHS

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#### DOCKET ENTRIES

- 3-5-75 Filed indictment.
  Assigned to Ward, J. as related case. 74-cr-887,
  & 75-cr-162.
- 3-5-75 B/W ordered on deft. Philip Choy Tung....Frankel, J.
- 3-7-75 Trial set for 4-14-75......Ward, J.
- 3-17-75 Defts. Bing Hin Lou, Li Chu Ying, Wong Shue Teen, Johnny Chau, Paul Jang, Victor Leong are fugitives of the Jurisdiction and are now in the custody of a foreign country (Canada).
- 3-17-75 Defts. Conny Andre Gustafson, Steiner Furu, Erik Max Hansen, John Christiansen, Arne Andersen are fugitives of the Jurisdiction and are now in the foreign country of Norway.
- 3-17-75 Defts. Wong Chou Shek a/k/a Ah Wong, George Kay Lew a/k/a Ah Kay, Wee Sik Moy a/k/a Ah Siah, Philip Choy Tong are adjourned to 3-24-75.
- 3-17-75 Deft. Ernest Olsen, present (atty. Irving Katcher, present). Deft. enters a plea of not guilty. 10 days for motions. Court fixed bail at \$350,000. Dert. Remanded in lieu of bail Pollack, J.
- Deft. Bernard Dalan present (atty not present) 3-17-75 Court enters a plea of not guilty. Court fixed bail at \$25,000 continued. Remanded in lieu of bail. Deft. Lee Louie present, (atty. Maurice Kozin present) Deft. enters a plea of not guilty. Court fixed bail at \$60,000-\$30,000 cash or surety continued. Deft. Bill Fern present (atty present). Deft. enters a plea of not guilty. Bail continued. Deft. Pon You Wing present (atty David Blackstone present). Deft. enters a plea of not guilty. Court fixed bail at \$7,500 cash to be continued. Deft. remanded in lieu of bail. Deft. Eng Fong present (atty. Paul Burt present) Deft. enters a plea of not guilty. Court fixed bail at \$1,000 P.R.B. secured by Passbook. Deft. Lam Shing not present (atty. Robert Mitchell present). Court enters plea of not guilty. No bail detainer lodged.

Deft. Roland Chu present (atty. not present)
Court enters a plea of not guilty. Court fixed
bail at \$10,000 P.R.B. secured by 10% cash.
Deft. Louie Yiu Che present (no atty. present)
Court enters plea of not guilty. R.O.R.
Pollack, J.

- 3-19-75 ENG FONG-Filed notice of appearance of Paul Burt as attorney for deft.
- 3-19-75 LAM SHING-Filed notice of appearance of Robert Mitchell as attorney for deft.
- 3-19-75 PON YOU WING-Filed notice of appearance of David Blackstone as attorney for deft.
- 3-19-75 ERNEST OLSEN-Filed notice of appearance of Irving Katcher as attorney for deft.
- 3-24-75 Deft. Pon You Wing-Application to reduce bail to \$7,500.00 P.R.B. granted. Bail limits extended to Continental United States. Deft. Remanded. Record Sealed...Ward, J.
- 3-24-75 PON YOU WING-Issued remand.

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- 3-24-75 Defts. Wee Sik Moy, Wong Chou Shek, George Kay Lew & Philip, Choy Tong-Case adjourned to 3-31-75.....Brieant, J.
- 3-25-75 Filed Govt's. bill of particulars.
- 3-25-75 Filed Govt's. affidavit & notice of motion for an order adjourning the trial of this matter, ret. 4-1-75.
- 3-24-75 PON YOU WING-Filed unsecured P.R.B. in the sum of \$7,500.00-acknowledged by the Clerk.
- 3-27-75

  Deft. Shek with atty. present pleads not guilty. Bail reduced to \$150,000 P.R.B. secured by \$7,500 cash. (also in 74 Cr. 887 & 75 Cr. 162) ...... Ward, J.
- 3-27-75 Deft. Tong with atty. present pleads not guilty. Bail of \$10,000 P.R.B. secured by \$1,000 cash continued.
  Trial to begin 7-14-75 at 10:00 A.M. for all defts......Ward, J.

- 3-28-75 WONG CHOU SHEK-Filed appearance bond in the sum of \$150,000.00 secured by \$7,500.00 cash, receipt No. 44502-acknowledged by the Clerk. (Filed in 74 Cr. 887)
- 4-2-75 Filed MEMO ENDORSED on Govt's. motion filed 3-25-75. Motion granted. The Court exercises its discretion to adjourn the date of trial to Monday, July 14, 1975 at 10:00 A.M. for the reasons set forth in the Govt's. moving papers. SO ORDERED...Ward, J.
- 4-3-75 PON YOU WING-Filed Remand-3-24-75 Deft. released from the custody of the U.S. Marshal. Bond posted as directed by the Court.
- 4-10-75 Deft. Dalan with attorney present for reduction of bail now fixed by Magistrate at \$25,000 cash or surety. Application adjourned, sine die...... Ward, J.
- 4-17-75 PHILIP CHOY TONG-Filed Warrant of Arrest with Marshals return unexecuted-Vacated 3-27-75.
- 4-30-75 Deft. Dalan with atty. present. Bail reduced to \$10,000 P.R. B. secured by \$1,000 cash or surety. Bail limits extended to E.D.N.Y. Ward J.
- 5-14-75 BERNARD DALAN-Filed deft's. appearance bond in the sum of \$10,000 P.R.B. secured by \$1,000 cash, Receipt No. 51602-acknowledged by the Clerk.
- 5-27-75 BERNARD DALAN-Filed Remand-Deft. is released from the custody of the U.S. Marshal upon posting \$10,000 bond secured by \$1,000 cash on 5-14-75.
- 5-28-75 BERNARD DALAN-Filed deft's. demand for a bill of particulars and motion for discovery and inspection.
- 6-12-7. Deft. Leong appeared. Court directs entry of a not guilty plea. Bail fixed at \$100,000 cash or surety by Magistrate continued. Deft. permitted to call his Canadian attorney.....Ward, J.
- 6-27-75 Filed Govt's. affidavit for a writ of habeas corpus ad test., for John Steffan Thomas directed to Warden, Federal Correction Institution, Oxford, Wisconsin, Writ issued, ret. 7-3-75.

- 7-3-75

  BERNARD DALAN-Filed Memo End. on Demand for Bill of Particulars filed 5/28/75 Motion denied except as consented to by the Government ......Ward, J. (M.N.)
- 7-10-75 ERNEST OSEN, Filed Affidavit & Notice of motion & annexed exhibits for an order dismissing the within indictment on the ground of "double Jeopardy as well as collateral estoppel, rtble before Ward, J.
- 7-10-75 Deft. Pon You Wing (atty present) Pleads guilty to ct. 1 (Interpreter Josephine M. Hong also present) P.S.I. ordered. Sentence date 8-7-75 at 2:15 P.M. Remanded...Ward, J.
- 7-10-75 Deft. Lee Louie (atty present) withdraws plea of not guilty & pleads guilty to ct. 3 P.S.I. ordered. Sentence date 8-7-75 at 9:30 A.M. Bail cont'd......Ward, J.
- 7-10-75 Re deft. Olsen Deft. moves to dismiss and. Dec. deferred......Ward, J.
- 7-14-75 Governments application to sever as to Chu, Tong, Moy, Ching, Fong, Shin & continue bailgranted. Trial adjourned to Sept. 22, 1975 at 10 A.M. (Govt witness ill)...Ward, J.
- 7-14-75 Deft. Leong (atty present) moves to reduce bail, granted. Bail reduced to \$25,000 cash or surety ....Ward, J.
- 7-10-75 LAM SHING-Filed Govt's. affidavit for a writ of habeas corpus directed to Warden, Green Maven State Prison. Writ issued, ret. 7-14-75.
- 7-23-75 VICTOR LEONG-Filed CJA Form 23-deft's financial affidavit.
- 7-23-75 LAM SHING-Filed CJA Form 20 Copy 5 appointing Robert Mitchell as attorney for deft., dated 2-27-75......Ward, J.
- 7-23-75 LAM SHING-Filed CJA Form 20 Copy 2 approving payment to Robert Mitchell, dated 7-14-75
- 7-18-75 Filed transcript of record of proceedings dated 4-3-75.

- 8-13-75 WONG CHOU SHEK-Filed deft's. affidavit & motion to proceed in forma pauperis.
- WONG CHOU SHEK-Filed MEMO ENDORSED on deft's motion filed 8-13-75. Motion granted. No opposition. Order signed.....Ward, J. (mailed notice)
- WONG CHOU SHEK-Filed ORDER that the deft. is permitted to proceed in forma pauperis pursuant to the provisions of the Criminal Justice Act excluding therefrom the payment of counsel fees ......Ward, J. (mailed notice)
- 8-1-75 Deft. Leong with attorney present moves to reduce bail-denied.....Ward, J.
- 8-19-75

  Deft. Victor Leong, A.U.S.A. Flannery & David Keegan, Esq. present. Bail application Granted and reduced to \$20,000.00 cash or surety. Laura Ho interpreter present. Waiver of Extradition to be signed. Deft. to furnish telephone number for apartment 26 at 26 Vandam St. Deft. to report to U.S. Marshal every Monday & Friday. Bail limited to Southern District of N.Y. Deft. to report for trial on 9-22-75 at 10 A.M. in Room 906......Ward, J.
- 8-20-75 VICTOR LEONG-Issued remand.
- 8-20-75 Filed Govt's. affidavit & notice of motion for an Order permitting the Govt. to take the deposition of Lam King Sang, ret. 8-26-75.
- 8-20-75 Filed Govt's. memorandum of law in support of its motion to depose Lam King Sang.
- 9-3-75
  Filed ORDER that Govt's. application to take the deposition of Lam Kin Sang is granted. Defts'. attorneys shall have the right to attend said examination and to cross-examine. Travel expenses will be paid by the Govt. Notice of the taking of deposition shall be given by telephone and copies of this order shall be mailed forthwith by the U.S. Attorney to the defts'. attorneys .....Ward, J.
- 9-27-75 ERNEST OLSEN-Filed deft's. affidavit in opposition to Govt's. motion for the taking of the deposition of Lam Kin Sang.

- 9-20-75 VICTOR LEONG-Filed deft's. appearance bond in the sum of \$20,000 cash, receipt No. 56515 Lin Yip Selina Leong-acknowledged by the Clerk.
- 9-27-75 Filed MEMO ENDORSED on Govt's. motion to take the deposition of Lam Kin Sang. Motion granted. Submit Order.....Ward, J.
- 9-5-75 ERNST OLSEN-Filed Govt's. affidavit for a writ of habeas corpus directed to Warden, Medical Center for Federal Prisoners, Prison Camp, Springfield, Missouri, Writ Issued, ret. 9-8-75.
- 8-27-75 Filed copy of letter addressed to Alan R. Kaufman, A.U.S.A. from Singer & Osterhoudt, dated 8-22-75.
- 9-11-75 Hearing held. Judge grants an adjournment until 9-12-75 for the continuation of pre-trial testimony.....Levet, J.
- 9-16-75 Filed Remand-Deft. Leong released from custody of U.S. Marshal upon posting \$20,000 cash bond.
- 9-22-75 VICTOR LEONG-Filed deft's. affidavit & notice of motion for permission to take the deposition of Paul Jang in Vancouver, British Columbia on 9-18-75.
- 9-22-75 VICTOR LEONG-Filed deft's. memorandum of law in support of motion to take deposition of a witness.
- 9-22-75 VICTOR LEONG-Filed affidavit & ORDER that U.S. Marshal shall serve the annexed subpoenas upon persons named without prepayment of fees and the U.S. Marshal shall pay the witness fees and mileage pursuant to C.J.A. ..... Ward, J.
- 9-23-75 LOUIE YUI-CHE-Filed deft's. affidavit & Order to Show Cause for severance and for suppression of potential testimony, ret. before commencement of trial scheduled for 9-23-75......Ward, J.
- 9-23-75 LOUIE YUI-CHE-Filed MEMO ENDORSED on deft's.
  Order to Show Cause filed 9-23-75. Motion
  disposed of in accordance with oral decision
  rendered this date. ...... Ward, J. (mailed
  notice)

9-23-75	Before Ward, J. Jury trial begun as to defts. Leong, Olsen, Wong & Louie. Bail as to deft. Louie revoked and deft. remanded.
9-24-75	Trial continued.
9-23-75	VICTOR LEONG-Filed MEMO ENDORSED on deft's motion for permission to take deposition.  Motion denied without prejudiceWard, J. (mailed notice)
9-25-75	Trial continues.
9-26-75	Trial continues. Deft. Louie's bail of \$10,000 P.R.B. is reinstated. Bail limits continued. Deft. Leong's bail limits to include E.D. of N.Y.
9-26-75	YIU CHE LOUIE-Filed deft's. unsecured P.R.B. in the sum of \$10,000-acknowledged by the Clerk.
9-29-75	Trial continues.
9-30-75	Trial continues.
10-1-75	Trial continues. Deft. Leong's bail reduced from \$20,000 to \$19,000 cash. Funds to be remitted to atty. Keegan to be disbursed by him.
10-1-75	VICTOR LEONG-Filed CJA Form 21 Copy 5 appointing Stephen Cheng as interpreter, dated 9-25-75Ward, J.
10-1-75	VICTOR LEONG-Filed CJA Form 21 Copy 2 approving payment to Stephen Cheng, dated 9-25-75Ward, J.
10-1-75	YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-23-75, dated 9-25-75 Ward, J.
10-1-75	YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-23-75, dated 9-25-75Ward, J.
10-1-75	YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-24-75, dated 9-25-75Ward, J.

YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-24-75, dated 9-25-75....Ward, J.

10-1-75

- 10-2-75

  YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-25-75, dated 9-29-75.....Ward, J.
- 10-2-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-25-75, dated 9-29-75.....Ward, J.
- 10-2-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-26-75, dated 9-29-75.....Ward, J.
- 10-2-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-26-75, dated 9-29-75......Ward, J.
- 10-6-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-29-75, dated 10-2-75.....Ward, J.
- 10-6-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-29-75, dated 10-2-75......Ward, J.
- 10-6-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 9-30-75, dated 10-2-75......Ward, J.
- 10-6-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 9-30-75, dated 10-2-75......Ward, J.
- 10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-1-75, dated 10-9-75 ..... Ward, J.
- 10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-1-75, dated 10-9-75 ..... Ward, J.
- 10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-2-75, dated 10-9-75 ..... Ward, J.
- 10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-2-75, dated 10-9-75, .... Ward, J.
- 10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-3-75, dated 10-9-75.... Ward, J.

10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-6-75, dated 10-9-75 ..... Ward, J.

10-14-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-6-75, dated 10-9-75 .... Ward, J.

VICTOR LEONG-Filed deft's. affidavit & notice of motion for suppression of evidence and for discovery.

VICTOR LEONG-Filed MEMO ENDORSED on deft's motion for suppression and discovery. Motion granted in accordance with oral decision rendered in open Court. ..... Ward, J.

BING HIN LOW, et al., - Filed Government's Request to Charge.

WONG CHOU SHEK, - Filed Deft's. Request to Charge.

Trial continues.

Trial continues. Suppression hearing held as to deft. Leong.

Suppression hearing as to deft. Leong continued. Motion to suppress granted. Trial continued.

Trial continues. Overt Act No. 27 stricken.

Trial concluded. Jury deliberating.

Jury deliberating.

Jury deliberating. Verdict: Olsen, Leong & Wong found guilty. Louie Yiu Che found not guilty. Pre-sentence investigation ordered. Sentence date 11-18-75 Olsen - 9:30 A.M., Leong - 9:45 A.M., Wong - 9:45 A.M. Bail of Leong & Wong revoked. Remanded. Deft. Louie - bail exonerated & he is discharged...Ward, J.

YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-7-75, dated 10-15-75.....Ward, J.

YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-7-75, dated 10-15-75.....Ward, J.

YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-8-75, 10-9-75 & 10-10-75, dated 10-20-75 .... Ward, J.

YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-8-75, 10-9-75, & 10-10-75, dated 10-20-75, Ward, J.

YIU CHE LOU'E-Filed Remand - 9-26-75 - Deft. released from the custody of the U.S. Marshal. Bond posted as directed by the Court.

Filed Govt's. memorandum of law re: identification of Yiu Che Louie.

Filed Govt's. memciandum of law re: when cross examination brings out a prior inconsistent statement by a witness.

Filed Govt's. memorandum of law on admissibility of Lam Kin Sang's agreement with the Govt.

VICTOR LEONG-Filed deft's. memorandum of law.

VICTOR LEONG-Filed Govt's. answer to deft's. memorandum of law.

- 10-24-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 5 appointing Caroline H. Lin as interpreter on 10-14-75, 10-15-75, 10-16-75 and 10-20-75, dated 10-21-75..... Ward, J.
- 10-24-75 YIU CHE LOUIE-Filed CJA Form 21 Copy 2 approving payment to Caroline H. Lin for services rendered on 10-14-75, 10-15-75, 10-16-75 and 10-20-75, dated 10-21-75. .... Ward, J.
- PON YOU WING-Filed JUDGMENT & ORDER OF PROBATION (atty present) IMPOSITION OF SENTENCE is suspended on count 1. Deft. is placed on probation for a period of FIVE (5), YEARS. Probation to be supervised by Probation Department of the U.S.D.C. for the Northern District of California. Count 10 dismissed on motion of deft's. counsel with the consent of the Govt..... Ward, J. Issued copies 10-28-75.

- LEE LOUIE-Filed JUDGMENT & COMMITMENT (atty present) The deft. is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SEVEN (7) YEARS on count 3 to be followed by a THREE (3) YEAR SPECIAL PAROLE term. (T. 21, Sec. 841) Said sentence to run concurrently with sentence on Indictment 75 Cr. 172. Bail revoked. Counts 1, 4 and 5 dismissed on motion of deft's. counsel with the consent of the Govt.
  .....Ward, J.
  Issued commitment 10-28-75.
- 11-06-75 PON YOU WING-Filed CJA Form 20 Copy 5 appointing David Blackstone, as attorney for deft. dated 10-30-75..... Ward, J.
- 11-06-75 PON YOU WING-Filed CJA Form 20 Copy 2 approving payment to David Blackstone, dated 10-30-75 ..... Ward, J.
- 10-31-75 VICTOR LEONG & WONG CHOU SHEK-Filed ORDER appointing Shirley Moy as interpreter for a fee not to exceed \$30.00 to assist probation in interviewing defts. ..... Ward, J.
- 11-07-75 Filed transcript of record of proceedings dated 9-9-75.
- 11-07-75 Filed transcript of record of proceedings dated 9-22-75, 4:00 P.M.
- 11-07-75 Filed transcript of record of proceedings dated 9-22-75, 4:10 P.M.
- 11-07-75 Filed transcript of record of proceedings dated September 23, 24, 25, 29, 1975.
- 11-07-75 Filed transcript of record of proceedings dated October 1, 2, 3, 6, 7, 1975.
- 11-07-75 Filed transcript of record of proceedings dated October 8, 9, 10, 14, 1975.
- 11-07-75 Filed transcript of record of proceedings dated October 15, 16, 20, 1975.
- 11-07-75 VICTOR LEONG & WONG CHOUE SHEK-Filed ORDER appointing Shirley Moy as interpreter for a fee not to exceed \$30.00 to assist probation in interviewing defts. .... Ward, J.

11-10-75 JOHNNY CHAU-Filed the following papers received from Mag. Schreiber (Mag. No. 75-1492)
Docket Entry Sheet, Copy of Magistrate's Final Commitment, Disposition Sheet, Copy of Indictment, S.D.N.Y., CJA Form 23-Deft's financial affidavit.

Filed transcript of record of proceedings dated 9-11-75.

PON YOU WING-Filed commitment & entered return. Deft. released from custody and his return trip to San Francisco, Cal. funded this being place of arrest of deft.

LEE LOUIE-Filed commitment & entered return. Deft. delivered to Warden, M.C.C., N.Y.C. on 10-22-75.

ROLAND CHU-Filed CJA Form 20 Copy 2 approving payment to William Richman, dated 11-10-75 ......Ward, J.

VICTOR LEONG-Filed deft's. affirmation & notice of motion for an evidentiary hearing, a new trial or alternatively for a judgment of acquittal, ret. 11-18-75.

Sentences adjourned to 12-16-75.....Ward, J.

WONG CHOU SHEK-Filed Deft's affdvt & Notice of motion for an order pursuant to Rules 33 & 34 of the F.R.Cr.P. granting the Deft. a new trial or a judgment of acquittal, and as so further indicated. Ret. 12-16-75.

ERNST OLSEN-Filed Deft's Affdvt. in support of the pending motion for an order dismissing the indictment.

LEE LOUIE-Filed Defts affdvt & Notice of Motion for an order pursuant to Rule 35 of the F.R.Cr.P. for reduction of sentence. (Filed in 74 CR 1225)

ERNST OLSEN-Filed affdvt of Alan R. Kaufman, AUSA, in opposition to Deft's motion to dismiss the indictment on the ground of double jeopardy.

VICTOR LEONG & WONG CHOW SHEK-Filed affdvt of Alan R. Kaufman, AUSA, in response to the omnibus motions of Deft's seeking post-conviction relief.

VICTOR LEONG-Filed stip. & order that Henry J. Boitel, of 233 Broadway, NYC, 10007, be and hereby is substituted as attorney of record for the Deft in the place and stead of his present attorney, and that the substitution take effect immediately. It is further represented that the trial transcript has already been received and turned over to Henry J. Boitel for the purposes of appeal.

SO ORDERED---CARTER, J.

VICTOR LEONG-Filed MEMO ENDORSEMENT on Defts notice of motion for an evidentiary hearing, etc. Motion DENIED in accordance with oral decision rendered this date. IT IS SO ORDERED---WARD, J. (m/n 12-17-75).

ERNEST OLSEN-Filed MEMO ENDORSEMENT on Deft Notice of Motion filed 7-10-75 for an order dismissing the indictment on the grounds of "double jeopardy". Motion DENIED in accordance with oral decision rendered this date. IT IS SO ORDERED---WARD, J. (m/n 12-17-75)

WONG CHOU SHEK-Filad Memo Endorsement on Deft notice of motion for an order granting the Deft a new trial or judgment of acquittal filed 12-09-75, Motion DENIED in accordance with oral decision rendered this date. IT IS SO ORDERED---WARD, J. (m/n 12-17-75)

WONG CHOU SHEK-Filed Judgment and Commitment order-The Deft is hereby committed to the custody of the Atty General for imprisonment for a period of FIVE (5) years to be followed by a Special Parole term of THREE (3) YEARS pursuant to Title 21, Section 841. Bail fixed in the amount of \$100,000.00 cash or surety pending appeal. REMANDED in lieu of bail. In the event Deft. meets bail requirements the limits are extended to California. Bail fixed at \$7,500.00 in California is exonerated. Deft. to be given credit for time already served.

---WARD, J. (mailed extenet to John Poll) (Right to Appeal & leave to file in Formal pauperus.)

JOHNNY CHAU-Deft, w/o Thomas Concannon present, pleads GUILTY to COUNT No. 1 (only Ct. P.S.I. ordered. Sentence date 1-21-76 at 9:30 AM. Bail of \$20,000 cash or surety continued. REMANDED in lieu of bail---WARD, J.

- 12-16-75

  ERNEST OLSEN-Filed Judgment & Commitment OrderThe Deft is hereby committed to the custody of
  the Atty General for imprisonment for a period
  of FIFTEEN (15) YEARS on COUNT No. 1, to be
  followed by a THREE (3) YEAR Special Parole term
  pursuant to Title 21 Sec. 841, FIFTEEN (15) YEARS
  on each of COUNTS 2, 11, and 14 to be followed
  by a term of THREE (3) YEARS on a Special Parole.
  Said sentences on COUNTS 2, 11, and 14 to run
  concurrently with sentence imposed on COUNT
  No. 1 and concurrently with sentence Deft.
  is presently serving. REMANDED.----WARD, J.
  (Right to take an Appeal & leave to file in
  Forma Pauperus.)
- 12-16-75

  VICTOR LEONG-Filed Judgment & Commitment Order.

  The Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of THREE (3) YEARS on COUNT No. 1 to be followed by a THREE (3) YEAR Special Parole term pursuant to Title 2 Sec. 841, TEREE (3) YEARS on COUNT No. 6, to be followed by a THREE (3) YEAR Special Parole term. Said sentence on COUNT No. 6 to run concurrently with sentence imposed on COUNT No. 1. Deft. to be given credit for time already served. REMANDED--WARD, J. (Right to take an Appeal & Leave to File in Forma Pauperus).
- 12-19-75 Pon You Wing-Filed transcript of record of proceedings, dated 07-10-75.
- 12-23-75 WONG CHOW SHEK-Filed Deft's Notice of Appeal from the judgment of conviction entered on 12-16-75, (m/n 12-30-75) to Deft & US Atty
- 12-23-75 VICTOR LEONG-Filed Deft's Notice of Appeal from the judgment of conviction entered on 12-16-75. (m/n 12-30-75) to Deft & US Atty
- 12-29-75 ERNST OLSEN-Filed Deft's Notice of Appeal from the Jury Verdict on 10-20-75 and from the sentence imposed on 12-12-75. (m/n 12-30-75). to Deft & US Atty.

INDICTMENT

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

BING HIN LOW, LI CHI YING, a/k/a "Robert Li",
WONG SHUE TEEN, a/k/a "Tony Wong", JOHNNY CHAU,
PAUL JANG, a/k/a "Communist Pui",
VICTOR LEONG, a/k/a "Foon Choy Leon",
ERNST OLSEN, CONNY ANDRE GUSTAFSSON,
STEINER FURU, ERIK MAX HANSEN,
JOHN CHRISTIANSEN, ARNE ANDERSEN,
BERNARD DALAN, LEE LOUIE, BILL FERN,
WONG CHOU SHEK, a/k/a "Ah Wong",
ON YOU WING, /ak/a "Ah Fu",
GEORGE KAY LEW, a/k/a "Ah Kay",
CHAN CHEUNG, ENG FONG, LAM SHING,
WEE SIK MOY, a/k/a "Ah Siah",
PHILIP CHOY TONG, ROLAND CHU and
LOUID YIU CHE, a/k/a "Peter Louie",
a/k/a "Louie Gin",

Defendants

The Grand Jury charges:

1. From on or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, BING HIN LOW, LI CHI YING, a/k/a "Robert Li", WONG SHUE TEEN, a/k/a "Tony Wong", JOHNNY CHAU, PAUL JANG, a/k/a "Communist Pui", VICTOR LEONG, a/k/a "Foon Choy Leong", ERNST OLSEN, CONNY ANDRE GUSTAFSSON, STEINER FURU, ERIK MAX HANSEN, JOHN CHRISTIANSEN, ARNE ANDERSEN, BERNARD DALAN, LEE LCUIE, BILL FERN, WONG CHOU SHEK, a/k/a "Ah Wong",

PON YOU WING, a/k/a "Ah Fu", GEORGE KAY LEW, a/k/a "Ah Kay", CHAN CHEUNG, ENG FONG, LAM SHING, WEE SIK MOY, a/k/a "Ah Siah", PHILIP CHOY TONG, ROLAND CHU and LOUIE YIU/CHE, a/k/a Peter Louie", a/k/a "Louie Gin", the defendants, MA SSU TS'UNG, a/k/a "Ma", ANAKE YENSOOKSAKUL, TONY MA, a/k/a "Ah Ming", CHOU CHO CHOI, WONG SHING KONG, SZE CHUN KAM, LAM KIN SANG, JOHN STEFFEN THOMSEN, JIMMY PANG, a/k/a "Foo", CHAN YUK WO, a/k/a "Tony Chan", CHAN YUK SHUI, CHOW WAI HING, a/k/a "Hing Pang", DING SZE YIN, a/k/a "Jimmy Chan", GEORGE WONG, a/k/a "Yee Wing Shing", LOW BOK MON, a/k/& "Norman Low" and NG POY YEE named herein as co-conspirators but not named as defendants, and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1), 841(b)(1)(A), 951(a)(1), 952(a), 953(a)(1) and 960(a)(1) and 960(b)(1) of Title 21, United States ode.

2. It was part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would import into the United States from places outside the United States, to wit, Thailand and Hong Kong, and elsewhere to the Grand Jury unknown, large quantities of heroin, a Schedule I narcotic drug controlled substance, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 841(a)(1), 841(b)(1)(A), 951(a)(1), 952(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

- 3. It was further part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would export from the United States to places outside the United States, to wit, Canada, large quantities of heroin, a Schedule I narcotic drug controlled substance, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 641(a)(1), 841(b)(1)(A), 953(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.
- 4. It was further part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I narcotic drug controlled substances the exact amount thereof being to the Grand Jury unknown, in violation of Section 812, 841(a)(I) and 841(b)(1)(A) of Title 21, United States Code.

### The Defendants and Co-Conspirators\* The Sources of Supply

1. Co-conspirators MA SSU TS'UNG, /a/k/a "Ma", TONY MA, a/k/a "Ah Ming" and ANAKE YENSOOKSAKUL were suppliers of heroin in and around the city of Bangkok, Thailand.

#### The Controller

- 2. Co-conspirator WONG SHING KONG established and controlled a heroin distribution network from Bangkok,
- \* The descriptions herein relate to the period of the Indictment.

Thailand to the United States and Canada.

#### The Smugglers

3. Defendants ERNST OLSEN, CONNY ANDRE GUSTAFSSON, STEINER FURU, ERIK MAY HANSEN, JOHN CHRISTIANSEN, ARNE ANDERSEN and BERNARD DALAN and co-conspirator JOHN STEFFEN THOMSEN were seamen who regularly travelled from Bangkok, Thailand, to the United States and Canada with large quantities of heroin.

#### North American Receivers

Co-conspirators LAM KIN SANG and SZE CHUM KAM and defendant LI CHI YING, a/k/a "Robert Li", lived in North America and regularly received heroin shipments from Bangkok, Thailand.

#### North American Distributors

5. Defendants BING HIN LOW, WONG SHUE TEEN,
a/k/a "Tony Wong", PAUL JANG, a/k/a "Communist Pui" LEE
LOUIE and WONG CHOU SHEK, a/k/a "Ah Wong" lived in North
America and regularly distributed heroin in Vancouver,
Canada, New York, New York and San Francisco, California.

#### The Workers

6. Defendant JOHNNY CHAU and co-conspirators

JIMMY PANG, a/k/a "Foo", CHAN YUK WO, a/k/a "Tony Chan",

CHAN YUK SHUI, CHOW WAI HING, a/k/a "Hing Pang", DING SZE

YIN, a/k/a "Jimmy Chan", and LOW BOK MON, a/k/a "Norman

Low" lived in North America and worked in the North American

heroin distribution networks established by the North

American Receivers and/or the North American Distributors.

#### The Buyers

T. Defendants VICTOR LEONG, a/k/a "Foon Choy Leong", PON YOU WING, a/k/a "Ah Fu", GEORGE KAY LEW, a/k/a "Ah Kay", CHAN CHEUNG, ENG FONG, LAM SHING, WEE SIK MOY, a/k/a "Ah Kay", CHAN CHEUNG, ENG FONG, LAM SHING, WEE SIK MOY, a/k/a "Ah Siah", BILL FERN, PHILIP CHOY TONG, ROLAND CHU and LOUIE YIU CHE, a/k/a "Peter Louie", a/k/a "Louie Gin" lived in North America and made regular purchases of heroin in Vancouver, Canada, New York, New York or San Francisco, California from the North American Receivers, North American Distributors and/or Workers.

#### The Means of Conspiracy

- 8. Co-conspirators MA SSU TS'UNG, a/k/a "Ma",
  TONY MA, a/k/a "Ah Ming" and ANAKE YENSOOKSAKUL supplied in
  excess of 200 pounds of heroin to co-conspirator WONG SHING
  KONG, who periodically arranged to smuggle quantities of
  the heroin from Bangkok, Thailand and Hong Kong arto the
  United States and Canada.
- 9. On at least twelve separate occasions heroin was smuggled into the United States and Canada in quantities ranging from 3,500 to 10,500 grams by defendants ERNST OLSEN, CONNY ANDRE GUSTAFSSON, STEINER FURU, ERIK MAX HANSEN, JOHN CHRISTIANSEN, ARNE ANDERSEN, BERNARD DALAN and co-conspirator JOHN STEFFEN THOMSEN.

- 10. On countless numbers of occasions defendant LI CHI YING, a/k/a "Robert Li" and co-conspirator SZE CHUN KAM distributed large quantities of heroin to BING HIN LOW.
- LAM KIN SANG distributed large quantities of heroin to LEE LOUIE, WONG CHOU SHEK, a/k/a "Ah Wong", PON YOU WING, a/k/a "Ah Fu", GEORGE KAY LEW, a/k/a "Ah Kay", CHAN CHEUNG, ENG FONG, LAM SHING, WEE SI, MOY, a/k/a "Ah Sian", PAUL JANG, a/k/a "Communist Pui", VICTOR LEONG, "Foon Choy Leong", PHILIP CHOY TONG, a/k/a NG POY Yee", ROLAND CHU and LOUIE YIU CHE, a/k/a "Peter Louie", a/k/a "Louie Gin".

#### OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

- 1. On or about June 1, 1971, at the Rusami Jewelry Store, Bangkok, Thailand, MA SSU TS'UNG, a/k/a "Ma" agreed to supply WONG SHING KONG with large quantities of heroin to be distributed in the United States.
- 2. On or about June 4, 1971, ERNST OLSEN met WONG SHING KONG in Bangkok, Thailand, and agreed to transport heroin from Bangkok, Thailand to the United States.
- 3. On or about June 6, 1971, in Bangkok, Thailand, ANAKE YENSOOSAKUL attempted to place 10,500 grams of heroin and 105 pounds of opium on board the M.S. Clifford Maersk.

- 4. On or about June 6, 1971, in Bangkok, Thailand, WONG SHING KONG received 10,500 grams of heroin and 105 pounds of opium from MA SSU TS'UNG, a/k/a "Ma" and ANAKE YENSOOSAKUL.
- 5. On or about June 9, 1971, WONG SHING KONG flew from Bangkok, Thailand to Hong Kong.
- On or about June 14, 1971, ERNST OLSEN arrived in Tokyo, Japan.
- 7. On or about August 14, 1971, WONG SHING KONG had a conversation with MA SSU TS'UNG, a/k/a "Ma" in Hong Kong.
- 8. On or about August 16, 1971, ERNST OLSEN visited the United States Consulate in Hong Kong.
- 9. On or about August 26, 1971, TONY MA, a/k/a "Ah Ming", drove WONG SHING KONG, ERNST OLSEN and four suitcases containing approximately 10,500 grams of heroin to the airport in Bangkok, Thailand.
- 10. On or about August 26, 1971, ERNST OLSEN, carrying approximately 5,250 grams of heroin, contained in two suitcases, registered at the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.
- 11. On or about August 27, 1971, ERNST OLSEN delivered approximately 5,250 grams of heroin to LAM KIN SANG at the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.
- 12. On or about August 27, 1971, LAM KING SANG purchased a scale at the 5 & 10 Cents Store on Bowery

Street, New York, New York.

- 13. On or about August 28, 1971, LAM KIN SANG delivered approximately 500 grams of heroin to LEE LOUIE in the #1 Club at 1 East Broadway, New York, New York.
- 14. On or about September 3, 1971, ERNST OLSEN checked-out of the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.
- 15. On or about September 5, 1971, WONG SHING KONG rented a house on Soi Papanit (Street), Bangkok, Thailand.
- 16. On or about September 16, 1971, LAM KIN SANG delivered approximately 500 grams of heroin to LEE LOUIE in the #1 Club at 1 East Broadway, New York, New York.
- 17. During the week of September 12, 1971, LAM
  KIN SANG delivered approximately 500 grams of heroin to
  LEE LOUIE in the #1 Club at 1 East Broadway, New York, New York.
- 18. On or about September 10, 1971, LOW BOK MON, a/k/a "Norman Low" received approximately 1,000 grams of heroin from LEE LOUIE and delivered it to BILL FERN in New York, New York.
- 19. On or about September 10, 1971, BILL FERN arrived in Chicago, Illinois.
- 20. On or about September 16, 1971, VICTOR LEONG, a/k/a "Foon Choy Leong" registered at the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York, and thereafter received approximately 250 grams of heroin

from LAM KIN SANG at the Tung On Association Gambling House, in New York, New York.

- 21. On or about October 2, 1971, in Bangkok,
  Thailand, WONG SHING KONG, CONNY ANDRE GUSTAFSSON and ERNST
  OLSEN delivered approximately 7,000 grams of heroin and
  105 pounds of opium to STEINER FURU on board the M.S.
  Thomas Maersk, which sailed for the United States on
  October 3, 1971.
- 22. In or about early October, 1971, LAM KIN SANG, in possession of approximately 2,000 grams of heroin, registered at the Holiday Inn at 750 Kearney Street, San Francisco, California.
- 23. In or about early October, 1971, LAM KIN
  SANG went to the Dai Loy Gambling House, 614B Jackson Street,
  San Francisco, California, where he had a conversation with
  WONG CHOU SHEK, a/k/a "Ah Wong", PON YOU WING, a/k/a "Ah Fu"
  and GEORGE KAY LEW, a/k/a "Ah Kay".
- 24. In or about early October, 1971, LAM KIN
  SANG delivered approximately 1,000 grams of heroin to GEORGE
  KAY LEW, a/k/a "Ah Kay" at the Holiday Inn at 750 Kearney
  Street, San Francisco, California.
- 25. In or about early October, 1971, LAM KIN SANG delivered approximately 1,000 grams of heroin to PON YOU WING, a/k/a "Ah Fu" at the Holiday Inn at 750 Kearney Street, San Francisco, California.
  - 26. From in or about mid-October, 1971 to in or

about mid-November, 1971 WONG CHAU SHEK sold approximately 2,500 grams of heroin to LOUIE YIU CHE, a/k/a "Peter Louie", a/k/a "Louie Gin" in San Francisco, California.

- 27. From in or about mid-October, 1971 to in or about mid-December, 1971 WONG CHAU SHEK sold approximately 6,000 grams of heroin to PHILIP CHOY TONG and ROLAND CHU in San Francisco, California.
- 28. In or about mid-October, 1971, LAM KIN SANG delivered approximately 500 grams of heroin to LAM SHING in New York, New York.
- 29. In or about mid-October, 1971, TONY MA, a/k/a "Ah Ming" delivered approximately 4,200 grams of his own heroin and approximately 9,800 grams of heroin belonging to MA SSU TS'UNG, a/k/a "Ma" to WONG SHING KONG at Soi Papanit (Street), Bangkok, Thailand.
- 30. On or about October 23, 1971, in Bangkok, Thailand, JOHN CHRISTIANSEN received approximately 7,000 grams of heroin and thereafter departed Bangkok, Thailand on board the M.S. Trein Maersk for the United States.
- 31. On or about October 23, 1971, in Bangkok,
  Thailand, JOHN STEFFEN THOMSEN received approximately
  9,450 grams of heroin and thereafter departed Bangkok,
  Thailand on board the M.S. Luna Maersk for the United States.
- 32. On or about November 8, 1971, in Bangkok, Thailand, ERIK MAX HANSEN received approximately 8,400 grams of heroin and thereafter departed Bangkok, Thailand on board the M.S. Lica Maersk for the United States.

- 33. On or about November 12, 1971 VICTOR LEONG, a/k/a "Foon Choy Leong" registered at the George Washington Hotel on 23rd Street and Lexington Avenue, New York, New York.
- 34. On or about November 14, 1971, ERNST OLSEN arrived in the United States on board Japan Airlines, Flight No. 002.
- 35. On or about November 18, 1971, in Vancouver, Canada, WONG SHING KONG was introduced to BING HIN LOW by LI CHI YING, a/k/a "Robert Li."
- 36. On or about November 18, 1971, in Vancouver, Canada, BING HIN LOW told WONG SHING KONG that he wanted 2,500 grams of heroin immediately, 5,000 additional grams of heroin before Christmas, 1971, and 5,000 grams of heroin per month thereafter.
- 37. In or about late November, 1971, LAM KIN SANG delivered approximately 500 grams of heroin to ENG FONG at the Tung On Association in New York, New York.
- and CONNY ANDRE GUSTAFSSON arrived in New York on board the M.S. Thomas Maersk and delivered 7,000 grams of heroin to ERNST OLSEN, who, in turn, delivered it to WONG SHING KONG.
- 39. In or about early December, 1971, WONG CHOU SHEK, a/k/a "Ah Wong" telephoned LAM KIN SANG and advised him that PON YOU WING, a/k/a "Ah Fu" would come to New York to pick up an unspecified quantity of heroin.

- 40. In or about early December, 1971, PON YOU WING, a/k/a "Ah Fu" received approximately 2,000 grams of heroin from LAM KIN SANG at the Kew Motor Inn, Queens, New York.
- 41. On or about December 3, 1971, ERNST OLSEN met JOHNNY CHAU in Toronto, Canada and thereafter flew to Vancouver, Canada to deliver approximately 3,500 grams of heroin to LI CHI YING, a/k/a "Robert Li".
- 42. On or about December 7, 1971, in Vancouver, Canada, WONG SHING KONG met with LI CHI YING, a/k/a "Robert Li", JOHNNY CHAU, BING HIN LOW and WONG SHUE TEEW, a/k/a "Tony Wong".
- 43. On or about December 8, 1971, LAM KIN SANG arrived in Vancouver, Canada, where he let VICTOR LEONG, a/k/a "Foon Choy Leong" and PAUL JANG, a/k/a "Communist Pui".
- 44. On or about December 8, 1971, in Vancouver, Canada, WONG SHING KONG and LI CHI YING, a/k/a "Robert Li" delivered approximately 2,500 grams of heroin to BING HIN LOW.
- 45. On or about December 9, 1971, in Vancouver, Canada, PAUL JANG, a/k/a "Communist Pui" purchased approximately 1,500 grams of heroin from LAM KIN SANG.

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46. On or about December 15, 1971, in San Francisco, California, WONG CHOU SHEK, a/k/a "An Wong" and PON YOU WING, a/k/a "Ah Fu" possessed approximately 500 grams of heroin with intent to distribute.

- 47. On or about December 19, 1971, WONG SHING KONG had a telephone conversation with WONG CHOU SHEK, a/k/a "Ah Wong".
- 48. On or about December 21, 1971, WONG SHING KONG and ERNEST OLSEN left the United States.
- 49. On or about December 24, 1971, in Bangkok, Thailand, WONG SHING KONG delivered a sum of money to MA SSU TS'UNG, a/k/a "Ma".
- 50. On or about December 25, 1971, JOHN STEFFEN THOMSEN, in possession of approximately 9,450 grams of heroin, arrived in New York on board the M.S. Luna Maersk.
- 51. In or about late December, 1971, WEE SIK MOY, a/k/a "Ah Siah" possessed approximately 500 grams of heroin with intent to distribute.
- 52. In or about the last week of December, 1971 ERNST OLSEN flew to Vancouver, Canada.
- 53. On or about January 2, 1972, ARNE ANDERSEN a rived in Vancouver, Canada and delivered approximately 7,250 grams of heroin to ERNST OLSEN and LT CHI YING, a/k/a "Robert Li".
- 54. On or about January 6, 1972, ERIK HANSEN, in possession of approximately 8,400 grams of heroin, arrived in New York on board the M.S. Lica Maersk.
- 55. In or about the first week of January, 1972, TONY MA, a/k/a "Ah Ming" delivered approximately 7,000 grams of heroin to WONG SHING KONG in Bangkok, Thailand.

- 56. On or about January 12, 1972, in Vancouver, Canada, ARNE ANDERSEN delivered approximately 7,000 grams of heroin to ERNST OLSEN and LI CHI YING, a/k/a "Robert Li".
- 57. On or about January 14, 1972, ERNST OLSEN and ARNE ANDERSEN arrived in Japan.
- 58. On or about January 30, 1972, in Bangkok, Thailand, BING HIN LOW had a conversation with MA SSU TS'UNG, a/k/a "Ma".
- 59. On or about February 2, 1972, in Hong Kong, BING HIN LOW had a conversation with SZE CHUN KAM.
- 60. On or about February 12, 1972, SZE CHUN KAM arrived in Vancouver, Canada.
- 61. From on or about February 12, 1972, through August 2, 1972, SZE CHUN KAM sold heroin in pound and multi-pound quantities, on a weekly basis, to BING HIN LOW.
- 62. On or about February 18, 1972, LAM KIN SANG leased an apartment at 60 East Broadway, New York, New York.
- 63. On or about March 1, 1972, STEINER FURU arrived in Vancouver, Canada and delivered approximately 7,250 grams of heroin to SZE CHUN KAM.
- 64. On or about March 8, 1972, ERNST OLSEN and LAM KIN SANG delivered approximately 9,450 grams of heroin to an apartment at 60 East Broadway, New York, New York.
- JOHN STEFFEN THOMSEN received approximately 8,400 grams of heroin from STEINER FURU and WONG SHING KONG.

- 66. On or about March 14, 1972, ARNE ANDERSEN delivered approximately 7,250 grams of heroin \* SZE CHUL KAM in Vancouver, Canada.
- 67. In or about the latter part of March, 1971, in Bangkok, Thailand, WONG SHING KONG received approximately 52,500 grams of heroin from MA SSU TS'UNG, a/k/a "Ma", TONY MA, a/k/a "Ah Ming" and CHOU CHO CHOI.
- 68. On or about March 31, 1972, STEINER FURU delivered approximately 7,250 grams of heroin to SZE CHUN KAM in Vancouver, Canada.
- 69. In or about the latter part of March, 1972, LAM KIN SANG delivered approximately 500 grams of heroin to CHAN CHEUNG in New York, New York.
- 70. In or about the latter part of March, 1972, LAM KIN SANG delivered approximately 250 grams of heroin to CHAN CHEUNG in New York, New York.
- 71. On or about April 4, 1972, in New York,
  New York, JIMMY PANG, a/k/a "Foo" sold approximately 444
  grams of heroin to an undercover agent of the Bureau of
  Narcotics and Dangerous Drugs.
- 72. On or about April 7, 1972, BERNARD DALAN arrived in Vancouver, Canada and delivered approximately 7,250 grams of heroin to WONG SHING KONG and SZE CHUN KAM.
- 73. On or about April 11, 1972, in New York, New York, JIMMY PANG, a/k/a "Foo", CHOW WAI HING, a/k/a

"Hing Pang" DING SZE YIN, a/k/a "Jimmy Chan" CHAN YUK WO, a/k/a "Tony Chan" and CHAN YUK SHUI possessed approximately 2,017 grams of heroin with intent to distribute.

74. On or about April 12, 1972, in New York,
New York, LAM KIN SANG, CHAN YUK WO, a/k/a "Tony Chan" and
CHAN YUK SHUI possessed approximately 2,617 grams of heroin
with intent to distribute.

75. On or about April 15, 1972, WONG SHING KONG and BING HIN LOW arrived in Hong Kong and met WONG SHUN TEEN, a/k/a "Tony Wong".

76. On or about April 19, 1972, JOHN STEFFEN THOMSEN arrived in New York with approximately 8,400 grams of heroin on board the M.S. Luna Maersk.

77. On or about July 19, 1972, CONNY ANDRE GUSTAFSSON delivered approximately 7,250 grams of heroin to ERNST OLSEN in Montreal, Canada.

78. On or about August 2, 1972, SZE CHUN KAM left Vancouver, Canada for Bangkok, Thailand.

79. On or about December 24, 1972, JOHN STEFFEN THOMSEN possessed approximately 8,400 grams of heroin in Brooklyn, New York with intent to distribute.

(Title 21, United States Code, Section 846 and 963).

#### SECOND COUNT

The Grand Jury further charges:

On or about the 26th day of August, 1971 in the Southern District of New York,

#### ERNEST OLSEN

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 5,250 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### THIRD COUNT

The Grand Jury further charges:

On or about the 28th day of August, 1971 in the Southern District of New York,

#### LEE LOUIE

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### FOURTH COUNT

The Grand Jury further charges:

On or about the 6th day of September, 1971 in the Southern District of New York,

LEE LOUIS

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### FIFTH COUNT

The Grand Jury further charges:

During the week of September 12, 1971, in the Southern District of New York,

#### LEE LOUIE

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### SIXTH COUNT

The Grand jury further charges:

On or about the 16th day of September, 1971 in the Southern District of New York,

VICTOR LEONG, a/k/a "Foon Chey Leong"

the defendant, unlawfully, wilfully and knowingly did

possess with intent to distribute, a Schedule I narcotic

drug controlled substance, to wit, approximately 250 grams

of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### SEVENTH COUNT

The Grand Jury further charges:

In or about the middle of October, 1971 in the Southern District of New York,

#### LAM SHING

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### EIGHTH COUNT

The Grand Jury further charges:

In or about late November, 1971, in the Southern District of New York,

#### ENG FONG

the defendant, unlawfully wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### NINTH COUNT

The Grand Jury further charges:

On or about the 29th day of November, 1971 in the Southern District of New York,

STEINER FURU and CONNY ANDRE GUSTAFSSON
the defendants, unlawfully, wilfully and knowingly did
possess with intent to distribute, a Schedule I narcotic
drug controlled substance, to wit, approximately 7,000
grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### TENTH COUNT

The Grand Jury further charges:

43

In or about December, 1971, in the Southern District of New York,

PON YOU WING, a/k/a "Ah Fu"

the defendant, unlawfully, wilfully and knowingly did

possess with intent to distribute, a Schedule I narcotic

drug controlled substance, to wit approximately 2,000

grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### ELEVENTH COUNT

\* \* \* \* \*

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 3,500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

## TWELFTH COUNT

The Grand Jury further charges:

In or about late December, 1971, in the Southern District of New York,

WEE SIK MOY, a/k/a "Ah Siah"

the defendant, unlawfully, wilfully and knowingly did
possess with intent to distribute, a Schedule I narcotic
drug controlled substance, to wit, approximately 500 grams
of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

## THIRTEENTH COUNT

The Grand Jury further charges:

On or about the 6th day of January, 1972 in the Southern District of New York,

## ERIK MAX HANSEN

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic

drug controlled substance, to wit, approximately 8,400 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

## FOURTEENTH COUNT

The Grand Jury further charges: On or about the 8th day of \*\*\* in the Southern District of New York,

#### ERNEST OLSEN

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 9,450 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

#### FIFTEENTH COUNT

The Grand Jury further charges: In or about late March, 1972, in the Southern

District of New York,

#### CHAN CHEUNG

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug coat colled substance, to wit, approximately 500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

## SIXTEENTH COUNT

The Grand Jury further charges:

In or about late March, 1972, in the Southern District of New York,

#### CHAN CHEUNG

the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 250 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

PAUL . CURRAN United States Attorney

s/Rocco Manano FOREMAN INDICTMENT

UNITED STATES DISTRICT COURT E. TERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Cr. No. 74 Cr. 627

(T. 21, U.S.C. \$\$173 and 174 and T. 18, U.S.C. \$2)

-against-

LUI NGAU, WONG SUM YI, PER BUUS HANSEN, GEORGE SUN, CHENG KAM CHEUNG, YEUNG TAK, ERNST OLSEN, LENHART BO HOLMGREN, KJELD V. KROGH, WONG YIU CHUNG, TUNG YAU SANG, LEE LOUIE, JEAN LIU, TAM WING CIT, A/K/A "Bom Wing Git" and BENNY FONG,

Defendants.

THE GRAND JURY CHARGES:

#### COUNT ONE

on or about and between the 1st day of January 1969, and the 30th day of June 1970, both dates being approximate and inclusive, within the Eastern District of New York and elbewhere, LUI NGAU, WONG SUM YI, PER BUUS HANSEN, GEORGE SUN, CHENG KAM CHEUNG, YEUNG TAK, ERNST OLSEN, LENNART BO HOLMGREN, KJELD V. KROGH, WONG YIU CHEUNG, TUNG YAU SANG, LEE LOUIE, JEAN LIU, TAM WING GIT, also known as "Hom Wing Git" and BENNY FONG, the defendants, together with Cheung Keng Fai, Ngau Sau Tung, Wong Shing Kong, Kin San Lam and George Wong, named herein as co-conspirators but not as defendants, and others known and unknown to the Grand Jury, wilfully, knowingly and unlawfully did combine, conspire, confederate and agree together and with each other to violate Sections 173 and 174 of Title 21, United States Code.

- 1. It was part of said conspiracy that the defendants and co-conspirators fraudulently and knowingly would import and bring into the United States large quantities of heroin and opium, narcotic drugs, contrary to law.
- 2. It was further a part of said conspiracy that the defendants and co-conspirators unlawfully, wilfully and knowingly would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of large quantities of heroin and opium, narcotic drugs, after the narcotic drugs had been imported and brought into the "nited States, knowing the same to have been imported and brought into the United States contrary to law.
- 3. It was further a part of said conspiracy that the defendants and co-conspirators would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities.

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts were committed within the Eastern District of New York and elsewhere:

# OVERT ACTS

- 1. In or about January 1969, the defendants LUI NGAU and WONG SUM YI, met with co-conspirator Wong Shing Kong in Singapore.
- 2. In or about March 1969, the defendant PER BUUS HANSEN removed approximately five (5) kilograms of opium from the M.S. Nicoline in Brooklyn, New York.

- 3. In or about March 1969, the defendant CHENG KAM
  CHEUNG received approximately five (5) kilograms of opium in
  Brooklyn, New York.
- 4. In or about August 1969, the defendant YEUNG TAK met with co-conspirators Wong Shing Kong and Cheung Keng Fai in Hong Kong.
- 5. In or about November 1969, the defendant ERNST OLSEN carried approximately two (2) kilograms of heroin aboard the M.S. Lexa Maersk in Manila, Philippines.
- In or about January 1970, the defendant ERNST OLSEQ sent a cable to the defendant GEORGE SUN in Brooklyn, New York.
- 7. In or about January 1370, the defendant ERNST OLSEN, LENNART BO HOLMGREN and KJELD V. KROGH, removed approximately five (5) kilograms of heroin and ten (10) kilograms of opium from the M.S. Lexa Maersk in Brooklyn, New York.
- 8. In or about January 1970, the defendant LEE LOUIE met with the co-conspirators Wong Shing Kong and Kin Sang Lam in New York, New York.
- 9. In or about February 1970, the defendant JEAN LIU received approximately three (3) kilograms of opium in New York, New York.
- 10. In or about February 1970, the defendant TAM WING GIT, also known as "Hom Wing Git" received approximately three (3) kilograms of opium in Brooklyn, New York.
- 11. In or about February 1970, the defendant TUNG YAU SANG received approximately two (2) kilograms of opium and one (1) kilogram of heroin in New York, New York.

12. In or about April 1970, the defendant WONG YIU CHEUNG delivered approximately one (1) kilogram of heroin to co-conspirator George Wong in New York, New York.

13. On or about June 2, 1970, the defendant BENNY FONG sold approximately one-half (1/2) kilogram of heroin in New York, New York.

### COUNT TWO

In or about January 1970, within the Eastern District of New York, the defendants LUI NGAU, WONG SUM YI, PER BUUS HANSEN, GEORGE SUN, CHENG KAM CHEUNG, YEUNG TAK, ERNST OLSEN, LENNART BO HOLMGREN, KJELD V. KROGH, WONG YIU CHEUNG, TUNG YAU SANG, LEE LOUIE, JEAN LIU, TAM WING GIT, also known as "Hom Wing Git" and BENNY FONG, fraudulently and knowingly did import and bring into the United States approximately five (5) kilograms of heroin, a narcotic drug, contrary to law. (Title 21, United States Code, Section 2).

### COUNT THREE

In or about January 1970, within the Eastern District of New York, the defendants LUI NGAU, WONG SUM YI, PER BUUS HANSEN, GEORGE SUM, CHENG KAM CHEUNG, YEUNG TAK, ERNST OLSEN, LENHART BO HOLMGREN, KJELD V. KROGH, WONG YIU CHEUNG, TUNG YAU SANG, LEE LOUIE, JEAN LIU, TAN WING GIT, also known as "Hom Wing Git" and BENNY FONG, fraudulently and knowingly did import and bring into the United States approximately ten (10) kilograms of opium, a narcotic drug, contrary to law. (Title 21, United States Code,

Sections 173 and 174 and Title 18, United States Code, Section 2).

A TRUE BILL

FOREMAN

DAVID G. TRAGER United States Attorney Eastern District of New York

Kong-direct SHING KONG, having been duly swown by the Clerk of the Court, took the witness stand and testified through the Interpreter as follows: THE CLERK: State your name and, spell it for the record, please. THE WITNESS: My name is Wong Shing Kong, 7 W-o-n S-h-i-n-g K-o-n-g. DIRECT EXAMINATION BY MR. CLAYMAN: 10 Mr. Wong, please speak loudly so the jury can 11 12 hear you --MR. CLAYMAN: I ask that of you also, Miss Ho. 13 Would you like a glass of water before we begin? 14 INTERPRETER HO: That might be helpful. . 15 THE COURT: Mr. Adler, n v courtroom deputy 16 will supply it. 17 MR. KATCHER: Your Honor, do you mind if I sit 18 here (indicating)? 19 20 THE COURT: Not at all. Mr. Wong, would you tell us where you live, sir? 21 I live in Hong Kong. 22 Are you married, sir? Q 23

And do you have any children?

Yes, I am.

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Yes.

Chaeng Kam Cheung told George Sun on the phone that he wanted samples.

- Q Did you give him any samples?
- A Yes.
- Q And when was this occurring, sir, if you can recall?
  - A That same evening.
- Q Now, did Mr. Chaeng Kam Cheung agree to purchase the narcotics that were brought in?
- A At first he wanted to buy but his offer for the price was too low so I didn't give it to him.

I finally sold him one pound of opium.

- Q For how much?
- A \$700.
- Q Now, did there come a time when you found other purchasers for the narcotics?
  - A Yes.
  - Q Could you tell us how this occurred, sir?
  - A One day in Chinatown I came across Lam King Sam.
  - Q Who is Lam King Sam?
  - A He had worked on board the ship before. I met
    - Q And did you have a discussion with him when you

(Continued on next page.)

Then he introduced me to two friends.

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	. 1	wong - direct
HS:em 4/1	2	Q And do you recall the names of the
	3	one is Lee Loui, and the other one
	4	Elong.
	5	o Did there come a time when you me
	6	individuals?
	7	A That night. He asked me to give
	8	to give to these people.
	9	Q Do you know if he brought them th
	10	A I gave him some heroin samples.
	11	Q Did there come a time when these
	12	some narcotics from you?
	13	A Yes.
	14	Q Would you describe that for us,
	15	A I sold one unit to Lee Loui in C
	16	I have to pay money to Ernst Olsen, and the ot
	17	Q Did there come a time when you p
	18	and the other two scamen some money?
<	19	λ Yes.
	20	Q Would you describe to us how thi
	21	where it occurred?
	22	A At that time his ship was in Bal
	23	said he will call me from there and then he to
	24	come to New York.

ese individuals; e's name is t with these him some samples ne samples? men purchased sir? hinatown, because her two seamen. aid Ernst Olsen s occurred and itimore. He ook the bus to

Did he take the bus with anyone else?

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			Wong - direct	54		
2		A	With the two other seamen that assisted	him.		
3		Ö	Where did he call you where were you	when		
4	he called?					
5		A	He called me from a bar in New York. I	was at		
6						
7	George Sun's house.					
8		Q	Did you go into New York?	-		
9		A	After I received the call, I got the mon	ney and		
	I went to meet him right away.					
10		Q	And do you recall where in New York you	met him?		
11		A	At the bus station around 34th Street.			
12		Q .	How much money did you pay him?			
13						
14		A	\$3,000.			
15		Q	Sir, did Mr. Lam Kin Chang find other co	ustomers		
16	to purchase these narcotics?					
17		<b>A</b>	Yes.			
			THE COURT: We will suspend for a few m	inutes		
18		and ta	ke a short recess for about five minutes	. The		
19		jury i	s excused.			
20			The witness may step down.			
21			THE INTERPRETER: Will he need to go to	the .		
22				che ,		
23		witnes	s room or should he stay here?			
24			THE COURT: Whatever he wishes.			
25			THE INTERPRETER: He said he'd rather s	it here.		
			(Jury leaves courtroom.)			
THE RESERVE OF THE PARTY OF THE						

Wong - direct

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THE COURT: Do you have any objection to turning over or are you willing to turn over any 3500 material during this recess or do you want to wait?

MR. CLAYMAN: There has been no request, but I have no objection.

MR. KATCHER: I came to your office and asked for it and you said that you would get it for me.

MR. CLAYMAN: I do not recall it happening.

THE COURT: In any event, would you turn it over now? It would save some time.

MR. KATCHER: Mr. Olsen is having difficulty digesting the food supplied at West Street and Mr. Jensen has volunteered to go to the cafeteria downstairs and pick up some sandwiches for him. The Danish counsel is laying it out.

THE COURT: Would you have any objection if the marshal takes care of it?

THE MARSHAL: It would have to be done through the marshal's office.

MR. KATCHER: I went to the marshal's office and they said that it would need your permission.

THE COURT: It is perfectly all right, subject to whatever regulations they have in effect.

Mr. Jensen, I want to say that you are the quietest translator that I have ever had in my courtroom. I commend you for it. Sometimes it is very distracting with the translators translating. I would turn to make sure that you are translating and I see your lips moving and I see acknowledgment on the part of the defendant.

MR. JENSEN: I try to keep it low.

THE COURT: I know it is necessary, so do not be too concerned with it.

We will take a short recess. I will be back in just a few moments.

MR. CLAYMAN: As 3500-1, the interview of Wong Shing Kong in May of 1974.

THE CLERK: So marked as 3500-1.

(So marked.)

MR. CLAYMAN: As 3500-2, a statement of Wong Shing Kong contained in a DEA-6 report, consisting of 42 pages, plus pictures.

THE CLERK: So marked as 3500-2.

(So marked.)

MR. CLAYMAN: As 3500-3, the Grand Jury testimony in the Eastern District of New York of Wong

Kong on July 24, 1974:

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THE CLERK: So marked as Government's Exhibit 3500-3.

(So marked.)

MR. CLAYMAN: As 3500-4, dated July 19, 1974, in the Southern District of New York, the Grand Jury testimony of Wong Shing Kong.

THE CLERK: So marked as Government's Exhibit 3500-4.

(So marked.)

MR. CLAYMAN: As 3500-5, the Grand Jury testimony of Wong Shing Kong, dated July 18, in the Southern District of New York.

THE CIERK: So marked as Government's Exhibit 3500-5.

(So marked.)

(Recess taken.)

THE COURT: All right, you may proceed.

MR. CLAYMAN: Thank you, your Honor.

CONTINUE OF HR. CLAY'IAN (Cont'd):

O Did Lam Kin Chang find other customers for the narcotica stored at George Sun's house?

A Yes.

Q Do you recall how many customers he found?

A I only recall one or two. The other; he

	A51
1	Wong - direct 58
2	transacted directly himself.
3	Q I see. And you gave the narcotics to Mr. Lam
4	King Chang and he sold them for you; is that true?
5	A Yes.
6	Q And he managed to sell all the narcotics that
7	you had stored at George Sun's house?
8	A He sold part of it.
9	Q pid there come a time when you left the United
0	States?
1	A Yes.
2	Q When was that?
3	A March of 1970.
4	Q Were all the narcotics disposed of by then?
5	A No, it was not all sold. I gave them to Lam
6	Kin Chang and Tung Yue Sun.
7	Q What were they to do with them?
8	A They promised to sell it and then send me the
9	money.
00	Q Where did you go, sir, when you left the Unite
n	States?
2	A I went back to Hong Kong.
23	sir directing your attention to approximate

June of 1971, were you in Bangkok at that time?

Yes.

Did he go to Japan?

the indictment, No. 74 CR 67, speaks of June 2, of

1970. Now we are more than a year later.

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THE COURT: What about that?

MR. CLAYMAN: This is the point that the

Government argued yesterday and submitted the memorandum on. As in the case of Papadoka, decided by

our Second Circuit, it shows a course of conduct.

Also in the case of <u>United States v. Supra</u>, the

evidence which the Government wishes to offer in this

trial is certainly probative of prior ventures of

the parties. The evidence will be to the effect

that Mr. Olsen smuggled narcotics into the United

States and that he obtained other couriers to.

smr ; le the narcotics. Based on the Second Circuit's

ruling as to the inclusiveness of similar acts, this
is wholly probative.

THE COURT: Preferring only to prior similar acts, but subsequent similar acts outside the term of the conspiracy may be used to show that the conduct of the defendant during the term of the conspiracy was not innocent but was criminal.

What acts will he testify to?

MR. CLAYMAN: That Mr. Ernst Olsen did take two suitcases containing heroin and opium into the United States.

# Wong - direct

Mr. John Thompson, a witness for the Government, who was a seaman, will testify that Ernst
Olsen recruited him as Wong Shing Kong recruited
Olsen. He gave him suitcases and he, John Thompson,
delivered these to the United States. This is highly
probative of the involvement in the conspiracy and
it is almost identical with the situation in Papadokas.

THE COURT: I will allow it and you have an exception.

MR. KATCHER: Your Honor is familiar with the dates in the indictment?

THE COURT: Yes.

MR. KATCHER: The last date was the 30th day of June, 1970.

THE COURT: I do not even go to the overt acts.

The 30th day of June, 1970. This is a year after.

That is true.

MR. KATCHER And of course the Government could easily have obtained --

THE COURT: Just changed the zero to a one.

I agree with you there, but the indictment was returned June 30th and I suppose what happened -- and

I do not want to embarrass Mr. Clayman -- when he

went over the proof he found this additional evidence,

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except this witness may not have been in that conspiracy or it may have been a separate conspiracy.

MR. CLAYMAN: I think the latter point the Court is making is what the Government did. It is a separate conspiracy involving other individuals. In view of the discussions that have been coming from the Court of Appeals, we declared not to take that direction and form one enormous never-ending conspiracy.

THE COURT: There is a case called <u>United</u>

States v. Marlow. The United States Attorney was told in no uncertain language to try to break up these conspiracies.

MR. KATCHER: I was involved in that case, so
I am familiar with the Second Circuit's ruling. But
in this particular case we have now, your Honor,
which is being tried before your Honor there will be
nothing whatsoever to restrain the Government from
obtaining a superseding indictment, not necessarily
on a conspiracy but on a particular substantive act
of a sale.

THE COURT: We would have had a lot of motions to sever because if the act did not concern the other conspirators, the others would have complained that

it now prejudiced them.

At any rate, the point is when the Court spoke in Marlow they never intended to say that the evidence proved that he was a member of this conspiracy, an omission --

MR. KATCHER: One of the prime objections -one of the arguments before the Court is that the
great number of defendants on trial made it an onerous
burden so that a jury couldn't help but become confused and prejudiced by the constant demonstration
of running one conspiracy into another, having
twenty-odd defendants.

THE COURT: You do not have that here.

MR. CLAYMAN: Mr. Katcher seems to be making the Government's argument.

MR. KATCHER: I am trying to show that they could have obtained a superseding indictment on a separate act.

THE COURT: A separate indictment?

MR. KATCHER: Right, and joined them together.

THE COURT: They may still do that. That has nothing to do with this case. I am just ruling on an evidence question.

MR. KATCHER: I understand that. I say that

the subsequent act that Mr. Clayman is seeking to introduce now -- and he has obtained some answer to some of the question -- is something that occurred more than a year later than the last date in the indictment and is highly prejudicial.

a pattern of conduct before the conspiracy and after the conspiracy, but as Mr. Clayman claims separate mapiracies, it is related to this conspiracy only because it is a pattern -- a type of conduct, then they may offer to show that he indeed participated in this conspiracy and that he did it with criminal intent and knew what he was doing.

MR. KATCHER: What we are doing indirectly is coming back to the Marlow situation.

Marlow situation concerned itself with other problems, with possible challenges on double jeopardy grounds because the conspiracy alleged was so broad that it could have include everything that the defendants ever did and it was difficult to determine what was decided at one trial. We do not have that problem here. We know what this conspiracy consists of. The participants are identified, the time is identified, the

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substance is identified and what you are arguing is that because there were criminal acts outside the term of the conspiracy that it can not be introduced. Our circuit has taken a different position and I think we are quite permitted to a imitting the evidence unless the only purpose is to show the criminal character of the defendant. Here I believe that there is a legitimate purpose. Here is a seaman aboard ship flying between the various ports in the Far East and the United States and I think to show that his presence on board ship was more than just a sailor, that he was there as a man interested in selling: narcotics is the Government's right and that it just wasn't for the few instances where it might have been just inadvertence or it might have been just poor judgment. The Government may show that he understood what he was doing and he did it before and continued to it after and I am allowing it on that ground.

MR. KATCHER: I will have a continuing objection your Honor?

THE COURT: Yes.

MR. KATCHER: Before the jury comes in, Mr. Clayman did give me the 3500 material. It was more

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at. When Mr. Clayman concludes,

unch hour today is fixed from
that lunch hour I have set aside
unch and at least two appointments
n that time. I'd like you to do
l your lunch hour and then try
your lunch hour. You will find
y pages are repetitious. My

.ext page.)

MR. CLAYMAN: In effect it is. It is one thing, three times.

THE COURT: They add something, then somebody else adds the same thing. You will find you can just thumb through it.

MR. KATCHER: Could I impose upon your Honor:

I have a sentence before Judge Pierce at 4:15
in the Sc thern District --

THE COURT: You haven't got a chance.

MR. KATCHER: I know that. Would your Honor have your clerk call Judge Pierce?

THE COURT: Did you tell him that you would be here until about 5:30?

MR. KATCHER: I told his clerk that I am starting a trial before your Honor as of yesterday, that is April the 7th, and that I did not know how your schedule of operation worked.

THE COURT: I will call him.

MR. KATCHER: They adjourned it to the 8th.

THE COURT: I will call him.

I had someone call an emergency meeting with me.
I said I could not see then before 5:30 tonight. My
meeting with those people is going to start at 5:30
tonight. My trial comes first.

MR. KATCHER: I'd much rather stay here and work

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as long as I can.

THE COURT: Can't keep the reporters here after
5:30. I will have a strike on my hands.

(Jury present.)

THE COURT: I am allowing the Government to offer evidence of transactions and events that occurred after June 30, 1970.

Now, the charge in the indictment is that the conspiracy elected on or about and between the first day of January, 1969 and the 30th day of June, 1970.

Now, "approximate," may be interpreted to mean a reasonable time after June 30th. One year after the alleged termination of this conspiracy certainly cannot refer to this conspiracy. However, if you credit the testimony — that means if you believe what the witness is saying — then you may consider that testimony that occurred after the termination of the conspiracy, only on the question of intent as to whether the defendant was aware of what he was doing and whether he did what he was doing knowing that it violated the law and for no other reason.

You may continue.

BY MR. CLAYMAN:

Q Mr. Wong, the question was: Did you speak to
Mr. Ernst Olsen in Hong Kong in approximately August of 1971?

MR. KATCHER: I did not hear the end of the last answer. May I have it read, your Honor?

THE COURT: Yes.

(Answer read.)

Q Approximately when was it that Mr. Ernst Olsen flew from Bangkok to the United States?

A Approximately in August of 1971.

Q And did you give him any instructions before he flew to the United States with the heroin?

A I told him after the gets into the United States, he should contact Lamking Sam.

Q Did there come a time when Ernst Olsen returned to Bangkok?

A Yes.

Q When was that, if you can recall?

A About September.

Q 1971, sir?

A Yes.

Q Did you have a conversation with him when he returned?

A Yes.

Q Can you tall us what this conversation was,

Mr. Wong?

A I asked if he could make further connections or

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Wong-direct more connections to send the heroin to the United States. 2 What do you mean, "connections," sir? 3 I mean could he find more people -- couriers to bring things over to the United States. 5 What is it that you mean by "things"? 6 Means the drugs, the heroin. 7 And what did Mr. Ernst Olsen say when you 8 offered him this proposition? He agreed to do it each time that he finds --10 MR. KATCHER: I object, your Honor. 11 THE COURT: Sustained. Strike it out. 12 Do you recall what he said? 13 If you cannot recall exactly what he said, could you 14 tell us in essence what he said? 15 He said he will look for couriers on board the 16 ships for each trip he should get \$2,000, so he won't want 17 to do it himself, but he will look for other people to do the 18 work. 19 Did you agree to this proposition? Q 20 Yes, we discussed it that way. 21 22

And did Hr. Ernst Olsen find couriers to bring narcotics into the United States?

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MR. KATCHER: I object to the characterization, your Honor, couriers.

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THE COURT: Sustained as to form.

Q. Did Mr. Ernst Olsen find individuals to bring narcotics into the United States?

A Yes.

Q And if you can recall, sir, over the next few months starting in September of 1971, how many trips were made by these individuals to the United States?

A About ten times between the United States and Canada.

Q Were there any trips made between -- strike that.

How were these trips accomplished, by what means?

A Some were by boat, some by airplane.

(Continued on next page.)

## Wong-direct

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BY MR. CLAYMAN:

What quantity of narcotics did these individuals Q take with them when they went from Bangkok to the United States and Canada?

Each time about nine kilos.

Of what, sir?

Heroin.

Now, sir, during the time that you spoke with Mr. Ernst often, throughout this period, what language did you speak to him in?

English.

And what language did he speak in?

English.

Mr. Wong, do you understand that you could have been prosecuted for this matter that is on trial today? INTERPRETER HO: Excuse me?

Do you understand that you could have been prosecuted for this matter that is on trial today?

I understand that.

And did there come a time an agreement was made that you would not be prosecuted?

> Yes. A

Would you tell us how that agreement came to be?

In December of 1972 I went to the American

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Consulate and I told them that I would be -- in Bangkok,
Bangkok American Consulate to tell them that I would be
willing to cooperate.

- Q And did you speak with someone there?
- A I spoke with Special Agent Thomas O'Grady.
- Q Could you tell us what occurred between you and Special Agent O'Grady?

. . KATCHER: Objection, your Honor.

THE COURT: May I have that?

(Record read by Reporter.)

THE COURT: That is too general.

Sustained as to form.

- Q Did you have a discussion -- well, for whom did Special Agent O'Grady work?
  - A With the United States Government -THE COURT: I want the question specifically
    confined to the agreement he made with the
    Government.

MR. CLAYMAN: That's what I am trying -THE COURT: I know, but the question was too
broad before.

MR. CLAYMAN: I know. I will reformulate it.

- Q Who does he work for?
- A The BNDD of the United States Government.

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 Drugs?

A Yes.

Q Could you tell us, sir, specifically what agreement was worked out at that time between you and Agent O'Grady with regard to your cooperation and the fact that you would or would not be prosecuted for the crimes?

The agent told me if I want to cooperate I have to "come forth with the absolute truth and we will not consider prosecution. If you go only halfway it will not be of any good."

the COURT: Didn't they promise you anything else besides not prosecuting you?

THE WITNESS: He said if I decided to cooperate I have to go all the way and have to tell the absolute truth. If I am going to tell part of it I am going to leave the consulate right now.

THE COURT: Did they promise you any money?
THE WITNESS: Not at that time.

Q Since that time has the United States
Government --

MR. KATCHUN: Plaise. I object.

We are talking about a conversation. Are we through with the conversation?

## Wong-direct

Forgive me for not rising, sir.

THE COURT: I don't mind your not rising, but if you have an objection, make your objection and do not ask questions. You will have that opportunity.

MR. KATCHER: I am objecting and I'd like to know at this point whether that is the entire conversation with O'Grady at that time.

THE COURT: Strike that.

Answer this: I want to know every promise you understand the Government made to you from whatever source. I don't care whether it was Mr. O'Grady or Mr. Clayman or anyone else -- all the promises you understand were made for your testifying.

That's what you mean by cooperation, right?

The Government said they would not prosecute you

That's No. 1.

No. 2?

THE WITNESS: They will give me protection.

THE COURT: They will give you protection.

Three? Did they pay you any money?

THE WITNESS: Not at that time.

THE COURT: All right. When and how much and how did they pay you?

THE WITNESS: After I have cooperated and I

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# Wong-direct

have helped the Government, since then, in these few years I have received \$7,000.

THE COURT: All right.

How was it paid -- weekly, monthly?

THE WITNESS: After I have -- I am not quite clear.

MR. CLAYMAN: Can I ask some questions?

THE COURT: Suppose you continue, Mr. Clayman.

MR. CLAYMAN: Thank you.

Mas the Government provided you funds for your expenses while you were cooperating with the Government when it was necessary to travel during your cooperation with the Government?

A Yes.

Q And these include travel expenses and living expenses; is that correct?

A For expenses for my coming here and the living expenses here.

Q And did you come to the United States on more than one occasion over the past three years?

A Yes, several times.

Q And did the Government also give you in addition to that, certain sums of money?

A Yes.

# Wong-direct

1		Wong-direct	19
2	Q	What was that for and how much was it?	
3	A	I have helped the Government prepare se	veral
4	cases and t	that is my repayment.	
5	. 0	This is in effect a reward for other ca	ses, not
6	this case,	but other cases; is that correct?	
7		MR. KATCHER: I object to the character	ization,
8	your	Honor.	1
9		THE COURT: Sustained as to form.	(
0	. 0	That money, the \$7,000 that was given t	o you,
1	is that pay	ment that was given for other cases in whi	ch you
2	cooperated	with the Government excluding this case?	
13	Α	Yes.	***
14	· Q	So, that money was not paid for testimo	ny, was
15	it, sir?		
16		MR. KATCHER: Now, please, your Honor -	-
17		THE CCUFF. Objection sustained. That	is a
18	conc	clusion.	
19		MR. CLAYMAN: I'm sorry. I didn't hear	it.
20		THE COURT: Objection sustained. That	is a
21	conc	clusion or it calls for a conclusion.	
22	Q	Did you work for Government agents and	as a
23	result of t	that work were you paid a sum of money?	
24	A	Yes.	

THE COURT: Are there any other promises or

benefits that you can recall you got for your cooperation?

THE WITNESS: They promised to move me here and to give me protection.

THE COURT: Move you to the United States?

THE WITNESS: Yes.

THE COURT: As a permanent resident?

THE WITNESS: I'm not clear on that point.

THE COURT: All right.

Q There has never been an agreement with the Government to make you a permanent resident, has there?

MR. KATCHER: Objection to form, your Honor.

THE COURT: I will allow it.

A No.

Q Is it a fact that you are now living within the Eastern District of New York somewhere?

A YES.

Q And did you recently arrive here?

A Yes.

Q Is your wife and your daughter with you?

A Yes.

Q And when it is possible do you expect to return to the Far East to continue living?

A After all this is finished and settled.

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# Lam - direct

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(Pause.)

MR. CLAYMAN: Lam Kin Sang, L-a-m, K-i-n, S-a-n-g.

THE CLERK: Face me and raise your right hand.

KIN SANG, having been first duly sworn by the Clerk of the Court, testified as follows (through the Chinese interpreter):

THE CLERK: Will you state your name and spell it for the record, please.

THE WITNESS: My name is Lam Kin Sang.

## DIRECT EXAMINATION

### BY MR. CLAYMAN:

- Mr. Lam, can you speak English at all?
- No.
- Will you tell us how old you are, sir?
- I am 35.
- Are you married, sir? · Q
  - Yes.
  - Do you have any children, Mr. Lam?
  - Yes.
  - Where are you presently residing?
  - 165 Plushing.
  - Is that where your family is residing or where

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Lam - direct

you are residing?

- A I am in jail.
- Now, on February 17, 1973 were you convicted of conspiracy to possess heroin in a trial in the Southern District of New York?
  - A Yes.
- On April 11, 1973 wereyou sentenced to a term of fifteen years imprisonment?
  - A Yes.
- Are you testifying today because the Government has promised you that it would make your cooperation known to the Parole Board and to your sentencing judge?
  - A Yes.
  - Q Have any other promises been made to you?
  - A No.
- Q Has anyone promised you that you would be parcled as soon as possible?
  - A No.
- Q But you hope you will be paroled as soon as possible; is that true?
  - A Yes.
  - Q And directing your attention --

THE COURT: Before that -- when were you sentenced in the Southern District of New York?

1	4	Lam - direct
2		MR. CLAYMAN: April 11
3		THE COURT: Did he testify to that?
4		MR. CLAYMAN: Yes, he did.
5		THE COURT: I'm sorry.
6	-	April 11th of what year?
7		MR. CLAYMAN: 1973.
8		Directing your attention to the month of Jan-
9	uary, 1970, w	here were you living at that time?
10	A	I was residing at 199 Flushing.
11		INTERPRETER HO: Flushing Street?
12		THE WITNESS: 199 Street, Flushing, Jamaica.
13	0	What was your occupation at that time?
14	A	I was working ina gambling house.
15	Q	Sometime in the month of January were you in
16	Chinatown?	
17	Α	Yes.
18	Ď.	Did you meet someone whom you had not seen for
19	a long time?	
20	A	Yes.
21	٥	Who was that?
22	λ	Name is Wong Shing Kong.
23	Q	Could you tell us how you knew Mr. Wong Shing
24	King?	
25	A	I knew him in 1965 when we were both scamans,

on	board	the	ship.

Q By the way, when did you enter the United States?

- A I came here in 1967.
- Q Are you here legally or illegally?
- A I entered legally.

Q Returning to January of 1970 when you met Mr. Wong Shing Kong, did you have a conversation with him?

A We shook hands and inquired after each other's health and had some casual talk and then we exchanged telephone numbers.

Q Did you hear from Mr. Wong Shing Kong the next day?

A That evening I received a call from him asking me to go out and have tea with him.

- Q And did you do that?
- A Yes.
- Q And where did you go to?
- A We went to a coffee shop in Chinatown.
- Q Did you have a conversation with him there?
- A Yes.
- Q Would you tell us what this conversation was, if you can recall?
  - A He told me "I have some white and black stuff

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THE COURT: Objection sustained as to form.

		A78
1	7	Lam - direct 312
3	Q	After this conversation what if anything did
4	you do?	
6	λ.	I went to ask Lee Louie if he wants some heroin
	Q	Who is Lee Louie?
. 6	. А	He is one of my friends.
7	. · . Q	And did he agree to purchase some heroin?
8	A	Yes.
10	Q	And did there come a time that you sold him
	some heroin?	
11	A	Yes.
12	Q .	Who supplied the heroin that you sold him?
13	Α	Wong Shing Kong.
15	Q	How much heroin did you sell him?
	А	One pound.
16	Q	Do you recall what he paid for it?
17	A	Approximately \$4,000.
18	Q	Did you find any other customers for the
19	narcotics tha	t Mr. Wong Shing Kong had?
20	A	Yes.
21	Q	Can you tell us who they were?
22	A	Jean Lui, a lady.
23	Q	Who is she?
24	. A .	I knew her from the gambling place where I was
25	working.	
AND DESCRIPTION OF THE PARTY OF		

1	1	A79
2	8	Lam - direct 313
3	0	What did she purchase, if anything?
4	A	She bought about three pounds.
5	. Ω	Of what?
6	A	Opium.
. 7	0	And do you recall what she paid for this thre
8	pounds of	opium?
9	A	Approximately \$2100.
10	Q	Where did you get the opium to sell her?
	A	From the lot that Mr. Wong Shing Kong has.
11	Q	Did you find any other customers?
13	A	Yes, Hom Git.
14		And who is Mr. Hom Git?
15	Α-	I also knew him from the gambling place where
٠.	I was work	
16	Q	And what did you sell him?
17	A	I sold him opium.
18	Q	Do you recall how much opium you sold him?
19	A	I gave him eight pounds, first. Later on,
20	three poun	ds were returned to me.
21	Q	What did he pay you for these eight pounds,
22	if you rec	
23		MR. CLAYMAN: Strike that.
24	. 0	for the five pounds that he kept what
25		you for this amount of opium?

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INTERPRETER HO: He was asking me if that is the total sum.

THE COUNT: Five pounds I think the question Isn't that right, Mr. Clayman?

MR. CLAYMAN: That is correct, your Honor.

- A Approximately \$3,000.
- Q Now, could you tell us, sir, how much money did you make from these transactions, if you can revall?
  - A Is it what I make from these five pounds?
  - Q No, from Mr. Lee Louie, Jean Lui and Hom Git.
  - A Over a thousand dollars.
- Q And what did you do with the rest of the money?
  - A I gave them to Mr. Wong.
  - Q Did there come a time --

THE COURT: I think we will suspend at this time. We will take a fifteen-minute recess and that means that you have the opportunity to go down and take some coffee in that machine if you wish. Please get back here in time to continue about -- we'll make it ten minutes to twelve so it will give you seventeen minutes.

'(Jury excused at 11:30 a.m.)

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MR. CLAYMAN: 3509, Mr. Clayman's notes interview of George Sun.

THE CLERK: So marked.

(So marked)

MR. CLAYMAN: 3510, A and B --

THE CLERK: 3510 and 3510-A, testimony of Lam Kin Sang, Southern District trial. March 24, 1975.

(So marked)

MR. CLAYMAN: 3511 is the Grand Jury testimony,
Lam Kin Sang, September 18, 1974.

THE CLERK: so marked.

(So marked)

MR. CLAYMAN: 3512 --

MR. KATCHER: Do you have a copy of the indictment?

MR. CLAYMAN: No. Grand Jury, Lam Kin Sang, Eastern District of New York, August 11th, 1974, 3512.

THE CLERK: So marked.

(So marked)

MR. CLAYMAN: Grand Jury testimony of Lam Kin Sang is 3513, August 21st, Southern District of New York.

THE CLERK: So marked.

(So marked)

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MR. CLAYMAN: 3514, DEA-6 statement of Lam Kin Sang, David Samuels DEA report.

(Recess taken)

### DIRECT EXAMINATION

BY MR. CLAYMAN: (Cont'd.)

THE COURT: I'm sorry I'm delayed. I have administration work. As soon as I get into my office there is one that has to see me. Then there was a telephone call. I told the party on the other end that I must hang up, that I have a jury in the courtroom. He paid no attention to what I was saying so finally I said I'm hanging up.

- Mr. Lam, after you accomplished the sales of narcotics for Mr. Wong in approximately March of 1972, did Mr. Wong go back to Hong Kong?
  - March of '972?
  - Excuse me, of 1970, I'm sorry.
  - '70, yes.
  - Before he left, did he give you anything?
  - He left two pounds of heroin with me.
  - What were you to do with this heroin?
  - I sold them to a friend in San Francisco.
  - Wjo is this friend?
  - His name is George Wong.

1	3	Lam-direct 317
2	Q	What did you do the money that you received from
3	George Wong	?
. 4	A	I sent the money back to Mr. Wong.
5	Q	Did you give Mr. Wong any money for these
6	narcotics t	hat he left with you or were they left on con-
7	signment?	
8	. A	I paid him after the heroin was sold.
9	, õ	Directing your attention to approximately
10	August of 1	971, where were you living then?
11	A	I was living at 199th Street, Flushing.
12	Q	Around that time did someone call your house?
13	Α .	Yes.
14	Q	And did you meet that person who called your
15	house?	
16	. A	Yes.
17	Q	And where did you go to meet this person?
18	A	I went to meet him at a bar in Brooklyn.
19	Q.	Who was the person that you met at the bar in
20	Brooklyn?	
21	A	The Olsen.
22	Q	Do you see the person in court that you met in
23	the bar in B	rooklyn?
24		Yes.
25	Q	Would you point him out, please?

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room?	
	MR. CLAYMAN: I think that is what I said.
A .	He told me the heroin is in the suitcases.
Q	Were the suitcases opened?
A .	He opened and took out the heroin to give me.
Q	How much heroin was contained theroin, sir?
A	Approximately about ten pounds.
Q	What did you do with this heroin?
A	I took it home with me.
Q	Did you do anything with Mr. Olsen the next
A :	The following day I drove him to the Konnedy
and w	e got two more suitcases and I drove home with
Q	What did you do when you got home, sir?
Α .	When we got home we opened the suitcases and
heroi	n out from the false bottom in the suitcase and
the op	fum at home.
Q	Kept the opium or the Geroin?
	THE INTERPRETER: Heroin.
	THE COURT: Did he say, heroin?
	THE INTERPRETER. Ves. it's my mistake. I'm

What, if anything, did Mr. Olsen do after this?

1	6	Lam-direct 320
2	A	He left.
3	Q	By the way, sir, had you been informed that
4	Mr. Olsen was	coming to the country?
5		Yes.
6	Q	How did this occur, sir?
7		Mr. Wong had written me beforehand.
8	Q .	What did you do with the nercotics that was
9	left at your h	ouse?
10	A	I went to look for buyers.
11	Q	Did you eventually sell the narcotics?
. 1	. А	Yes.
18	Ω:	Directing your attention to some time in
14	November of 1	71, did you again see Mr. Olsen and Mr. Wong?
15	A	Yes.
16	Q	Where did this occur?
17	A	They came to New York. I saw them in New York
18	0	What, if anything, did you do with these gentle
19	men when they	came to New York in November of 1971?
20	. A	The three of us went to a bar to get two more
21	suitcases and	then we drove back to my old home.
22	Q	Where was the bar located?
23	A	Near the waterfront in Brooklyn.
24	Q	Who went to get the suitcases.

The three of us went together. I don't remember

# Lam-direct

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2	exactly who w	ent in to get the suitcases.
a	Q	Where did you bring the suitcases?
4	A	I brought them to my old home.
5	Q	Are you living someplace different now?
6	A	Yes, I just moved shortly before that.
7	Q	This was your ole home in Flushing?
8	A	Yes.
9	Q	What, if anything, was contained in these suit-
10	cases?	
11		Heroin in there.
12	Q.	Do you recall how much heroin was in the suit-
13	cases?	
14	A	I do not recall the exact number of pounds.
15	Q.	What, if anything, was done with this heroin?
16	Α.	Mr. Wong gave me one suitcase that contained
17	the heroin.	
18	Q	What, if anything, occurred with the other
19	suitcase?	
20	А.	Mr. Wong told me that he gave the other case
21	to Mr. Olsen	to bring to Vancouver, Canada.
22	Q	Directing your attention to some time in March
23	of 1972, did	you see Mr. Olsen again?
24	A	Yes.
25	Q	Where did this occur?

A	In	New	York.

- Do you recall where you saw him in New York?
- He came to my home.
- What, if anything, did you do with Mr. Olsen when he came to your home?

I went with him to the Seamen's Club to get three suitcases that contained heroin.

What did you do with these three suitcases when you picked them up?

After we picked up the three suitcases, Mr. Olsen and I drove to East Broadway when we delivered the suitcases to the two Chinese brothers.

Did you open the suitcases when you delivered 0 them?

Yes, we took -- we opened the suitcases and took the heroin out from the false bottom.

Do you recall how much heroin was in the suitcases?

Approximately 20 pounds.

What was done with the heroin, if you can recall?

Some of it was sold. The rest was confiscated by the government.

Now, during this period from 1970 to 1972, were

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you involved in selling heroin in New York?

Yes.

Can you tell us, sir, approximately how much money you made from the illegal sale of narcotics during this period?

Between twenty and \$30,000.

The money you received for the sale of heroin, what did you do with this money .-- I'm not talking about the profits, I am talking about the amount of money that you received when you sold the heroin? .

> I send the money back to Wong Shing Kong. MR. CLAYMAN: No further questions -- this witness.

> > THE COURT: Mr. Katcher?

MR. KATCHER: Your Honor, I have been given too, several hundred pages of testimony. May we suspend now so that I may read it?

THE COURT: All right. We will suspend at this point and I will ask you to return at 1:30.

The jury is excused for lanch.

(Luncheon recess taken)

			THE	
1			Thomsen-direct	380
2			THE COURT: You may step down. The	nank you.
3			Call your next witness.	
4			MR. CLAYMAN: Yes, your Honor.	
5			The next witness is John Thomsen.	
6			THE COURT: I assume that is an Eng	glish
7		npea	aking witness?	
8			MR. CLAYMAN: Yes, your Honor.	. /
9	<b>ЈОН</b>	И	THOMSEN, called as a witness	s, having
10		been	first duly sworn by the Clerk of the	Court,
11		tost	cified as follows:	
12	DIRECT	EXAM	INATION	
13	BY MR.	CLAY	MAN:	
14		Q	Would you speak up in a loud voice	so all the
. 15	jurors	can	hear you?	
16		λ	Yes.	
17		Q	How old are you?	
18		λ	25 years.	
19		0	Where are you presently residing?	
20		λ	In prison.	
21		λ	Where is your where are you from	n, sir?
22		λ	Denmark.	
23		Q	Are you married?	
24		Α	Yes.	
25		Q	Do you have any children?	

### Thomsen-direct

1		Thomsen-direct 552
2	Q	By anyone?
3	A	No.
4	Q	Directing your attention to approximately
5	October of	1971, where were you living at that time?
6	A	Bangkok, Thailand.
7	Q	What was your occupation?
8	A	Merchant marine.
9	Q	For whom did you sail?
10	A	Maersk Line.
11	Q	Around October of 1971, were you on a ship
12	from Bangkol	:?
13	A	Yes.
14	Q	What was the name?
15	. A	LUNA. Maersk.
16	Q	Did there come a time before the ship left,
17	when you had	d a conversation with someone?
18	A	Yes.
19	Q	Would you tell us who that was?
20	A	Mr. Ernst Olsen.
21	Q	Do you see Mr. Ernst Olsen in court today?
22	λ	Yes, sitting over there.
23	۵ .	Would you indicate which man?
24	А	The one with the beard.
25		THE COURT: Let the record show that the

1	-		Thomsen-direct 383			
2		witnes	s pointed out the defendant, Ernst Olsen.			
3		Q	Where did this conversation take place?			
4		A	Down in the Mariners' Club in Bangkok.			
5		Q	What was the Mariners' Club?			
6		A	It's a restaurant and they got swimming pools			
7	different tennis courts and so on.					
8		Q	What was the subject of the conversation that			
9	you had at that time with the defendant Ernst Olsen?					
10		A.	He was playing pool and when the game was			
11	over h	e come	and asked me if I wanted to make some easy			
12	money.					
13		Q	And what did you say to him?			
14		A	I say, it depends on what I have to do for			
15	him.					
16		Q	Anything occur after this conversation took			
17	place?					
18		A	Yes.			
19		Q	What was that?			
20		Α .	He took me to a taxi out to his home.			
21			MR. KATCHER: Where, may I have the answer?			
22			THE COURT: Mr. Shapiro,			
23			(Read)			
24		λ .	Took a taxi up to his home.			
25			MR. KATCHER: Thank you.			

# Thomsen-direct

- Q Did you continue your discussion at his home?
- A Yes, we got drinks and afterwe went up to the second floor which he show me two Samsonite suitcases.
  - Q Continue.
- A He opened them in front of me and asked me

  if I could see anything wrong with them?
  - Q What did you say?
  - A I said no.

(Continued on next page.)

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4/2	1		Thomsen-direct 385
IIS:em	2	Q	Did he say anything to that?
1/2 fol.not	3	A	He say there is false, bottoms in the suitcases.
- 101.110t	4	Q	Did he say anything else to you?
	5	A	And contained heroin.
-	6	Q	Did this conversation continue?
	7	A	He asked me if I want to take them all to New/
	8	York for him.	
	9	Q	What did you say?
	10	A	I say I would think about it. So I went back
	11	home.	
<u> </u>	12	Q	Did you see Ernst Olsen again?
	13	A	The next morning I met him again.
	14	Q	Where is that?
	15	. A	On the bar.
	16	Q	Where?
	17	A	In Bangkok.
	18		Did you continue to have a discussion with him?
	19		Yes, he asked me if I agreed to take the suit-
	20	•	York for him and I agreed to do so.
	21		By the way, when you were in his home the other
•	22		eet anybody that is the day before this?
C.	23		Yes, he introduced me to Stanley Wong and
	24	Charlie Tse.	
	25		Did he tell you who these people were?
			no tell you who these people were?

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24 25 A That they were his partners who helped him pack the suitcases.

Q The next day at the bar, what happened there?

A. He told me before the ship leaves to bring my suitcases out to his home so he can take my clothes from my suitcases and transfer them over to the two suitcases with the heroin in it.

Q Did you do this?

A Yes, I did.

Now, did there come a time that your ship was about to leave Bangkok?

A Yes.

Q What if anything occurred immediately prior to this?

A The day before the ship was about to leave I went down to Olsen's home and called a taxi and took the suitcases down on board the ship.

Q Did there come a time when the ship left Bangkok

A Yes.

Q Before the ship left, had you received any instructions with regard to the suitcases regarding the heroin?

A He told me as soon as it arrives in New York to bring up to the Swedish Seamen's Center on South Portland Avenue.

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	A97
	3 Thomsen-direct 387
	Q How many suitcases were there?
•	A Three.
	Q Were you aboard the LUNA MAERSK when it left
5	Bangkok?
6	A Yes.
7	Q Were the suitcases with you?
8	A Yes, I had them in my cabin.
9	Q Did there come a time when the ship arrived in
10	the United States?
11	A Yes.
12	Q Where did it dock, do you know?
13	A Pier 11, Brooklyn.
14	Q When was this, do you recall?
15	A About March '72.
16	Q And what if anything occurred after the ship
17	arrived?
18	A I brought the suitcases to the Swedish Seamen's
19	Center.
20	Q . I am sorry?
21 22	A I brought the suitcases up to the Swedish Sea-
	men's Center.
23	Q What did you do after that?
24	. A I stored them in Ernst Olsen's name.
20	Q What did you do after that?
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1	4		Thomsen-direct 388		
2		λ	I went back to Thailand.		
3		Q	Approximately when did you arrive in Thailand?		
4		A	In March '72.		
5		o o	What if anything occurred when you arrived in		
6	Thaila	nd?			
7		Α .	I went		
8			MR. KATCHER: Where?		
9			MR. CLAYMAN: Thailand.		
10		A	I went out to Olsen's home.		
11		Q	Did you see him?		
12		Α .	No, I didn't.		
13		Q	Who did you see?		
14		A :	Stanley Wong was in the house.		
15		Ω .	Did you speak with him?		
16		A	Yes, I asked him where Olsen was.		
17			MR. KATCHER: Objection.		
18			THE COURT: Strike it out. The jury will		
19	disregard it.				
20		Q	Did there come a time when you were in Hong Kong		
21	around	March (	or April of 1972?		
22		A	Yes.		
23		Q	What ship were you on at that time?	STREET, STREET	
24		λ	The HS LUHA HAERSK.		
25		Q	Were you given anything at this time?		

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## Thomsen-direct

- A Yes, two suitcases containing heroin.
- Q Who gave them to you?
- A Stanley Wong.

MR. KATCHER: Objection, your Honor.

THE COURT: Objection sustained. Strike it out. The jury will disregard it.

MR. CLAYMAN: May the Government be heard, your Honor?

THE COUPT: I think I heard you on this before and I thought I told you that I will not take any testimony post-conspiracy of any third parties.

MR. CLAYMAN: I thought that ruling was as to what they said.

THE COURT: It is the same thing. None of the acts that are third party did is attributable to this defendant. I tell the jury again the limited nature of this type of testimony, it is after the alleged conspiracy.

- Q In Approximately March and April of 1972, were you on the LUNA MAERSK bound for the United States?
  - A Yes.
  - Q Did you have anything with you?
  - A Two suitcases containing heroin.

MR. KATCHER: I will object to this. I move

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### Thomsen-direct

that the latter part be stricken.

THE COURT: Are these the same suitcases that we are talking about?

MR. CLAYMAN: May the Government be heard, your Honor?

THE COURT: The jury may be excused.

(Jury leaves courtroom.)

THE COURT: I ruled before that I would not allow you to establish a conspiracy either pre or post.

MR. CLAYMAN: I understand the Court's ruling.

Mr. Thomsen is about to testify that when he arrived

in the United States, he received a letter from

Prnst Olsen --

MR. KATCHER: This thing is being said in front of a witness who speaks English. I think it is unfair for him to say in front of the man.

THE COURT: I don't know whether it is unfair or not.

MR. CLAYMAN: How do you think I know it?
THE COURT: That is right.

I will accede to your demand made for the purpose of the record.

Would you please take a position outside the

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courtroom?

(Witness leaves courtroom.)

MR. CLAYMAN: He will testify when he arrived in the United States he received a letter from the defendant that said to take the suitcases back to Bangkok, that there had been trouble. He could not take them back. He wrote a letter to Ernst Olsen in Canada, saying -- describing the situation. He did not hear anything. He then wrote a letter to Ernst Olsen in Thailand and about a month later he received a letter with a plane ticket and \$200. He flew to Bangkok, Thailand and tolked to him. Olsen asked him how the trip went. He said that he took the suitcases to Swedish Seamen's Center. About two or three weeks later Ernst Olsen said to the defendant that he wanted to go to the United States to take care of it, that he wanted permission to take the suitcases out. John Thomsen then told him that he had left them in his girl friend's house. He then gave Mr. Olsen permission to take them from there.

If the Government cannot show that there was narcotics on the ship, this whole colloquy and events which occurred once he arrived in the United States will be somewhat meaningless.

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THE COURT: It may be, but I won't allow inadmissible evidence to come in because you cannot show it any other way.

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MR. CLAYMAN: Could I be allowed to ask him when he arrived in the United States, did he receive a letter from Ernst Olsen, and that in the letter Ernst Olsen told him to take the narcotics back?

MR. CLAYMAN: He received a letter saying to take the narcotics back to Bangkok; that there had been trouble.

THE COURT: What did the letter say?

THE COURT: The narcotics?

MR. CLAYMAN: The stuff. The mere fact that he didn't hand it to him, certainly that does not mean that this is not a subsequent similar act. He was involved in the importation of these narcotics. It was a conspiracy. The Court is saying whenever someone is involved in a subsequent conspiracy the Government cannot prove it, that this is out of the ken of the Mason and Papidokas opinions --

THE COURT: Post-conspiratorial acts referring to the defendant and not third parties. You cannot make it a third-party act by trying to

establish a conspiracy.

MR. CLAYMAN: I take exception. I do not know if that helps.

THE COURT: Try to prove it any other way, but I won't have conversations of third parties on the theory that they are in another conspiracy and they have a right to speak for Mr. Olsen.

MR. CLAYMAN: May I ask this question: I will ask him if he came to the United States, how he received a letter from Mr. Olsen, how he returned and did he discuss the fact that the narcotics were in the United States with Mr. Olsen?

THE COURT: If they tal'ed about narcotics and it bears on the issue of criminal intent in this conspiracy by reason of his involvement post-conspiratorial, yes. That's the only excuse for it coming into the case.

MR. CLAYMAN: Thank you, your Honor.
(Jury present.)

JOHN THOMSEN, having been previously sworn, resumed the stand and testified further as follows:

BY MR. CLAYMAN (Cont'd):

Q Sometime, sir, in the end of 1972, were you in the United States?

1		A104
2	10	Thomsen-direct
3	A	Yes.
4	. 0	Were you arrested in the United States?
5	A	Yes.
6	o.	For what were you arrested?
7	A	Pardon?
8	٥	What was the charge for which you wore arrested
9	A	Possession of eight and a half pounds of heroin
10	٥	And what heroin was that that you were arrested
11	for posse	ssion of?
12		THE COURT: Had it been brought in aboard ship?
13		THE WITNESS: Yes.
14		MR. CLAYMAN: Thank you. I have no further
15	qu	estions.
16		THE COURT: Mr. Katcher?
17		MR. KATCHER: Just a few.
18	CROSS-EXA	MINATION
19	BY MR. KA	TCHER:
20	Q	Mr. Thomsen, did you know Mr. Olsen
21	λ	Yes, I do.
22	Q	in 1969?
23	A	No, I didn't.
24	Ö	Did you know him in the early part of 1970?
25	Α .	No.
	Q	Do I understand from your testimony that the

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the names?

THE COURT: I am telling them that it does name
25 people anyway, under the circumstances. That is being
covered.

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All right, thank you, gentlemen.

[In open court:]

THE COURT: Ladies and gentlemen, it is the custom in this court that the juror seated in Seat No. 1, in this case Mr.Alexander Santa Croce, serve as the Foreman of the jury. Mr. Santa Croce's function will be to take the vote as you vote on the various charges and in the event you request anything he will see to it that a note is prepared specifying your request and is sent to the Court so that the note is received here in the courtroom by me. And I confer with counsel and attempt wherever possible to grant the jury's request, whatever it may be.

Mr. Foreman, ladies and gentlemen, we come now to that stage of the case where the evidence is in, the lawyers have presented their arguments, and you are about to do your part in the administration of justice, which is to pass upon and to decide the factual issues.

You are the sole and exclusive judges of the facts. You pass upon the weight of the evidence. You determine the credibility of the witnesses. You resolve

such conflicts as there may be in the evidence and you draw such reasonable inferences as may be warranted by the testimony or exhibits in the case.

My function at this point is to instruct you to the law which is applicable to the case. It is your duty to accept the law as I state it to you in these instructions, as to imply it to the facts as you find them. The logical result of that application is the verdict in the case.

With respect to any fact matter, it is your recollection and yours alone that governs. Anything that counsel, either for the Government or the defendants may have
said with respect to matters in evidence during the trial,
in questions, in colloquy with the Court, in argument or
in summation, is not to be substituted for your own recollection of the evidence.

So, too, anything I may have said during the trial, or may refer to during the course of these instructions as to any factual matter in evidence, is not to be taken in lieu of your own recollection. The case must be decided by you upon the sworn testimony of the witnesses, any stipulations entered into among counsel and such exhibits as were received in evidence.

Should you wish to hear any of the testimony

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or any part of my charge, you may request that any portion of the testimony or any portion of my charge be read back to you. You will then be brought back into the courtroom and whatever you have requested will be read to you.

Should you wish to see the indictment or any exhibit in evidence, it will be sent into the jury room on your request.

The charges against the four defendants on trial before you, and I will be nawing them from time to time in the order their names appear in the indictment -- there is no significance to the order in which I name the defendants -- Victor Leong, Ernst Olsen, Wong Chou Shek and Louie Yiu Che, are contained in the indictment. I instruct you at the outset that the indictment is merely an accusation, a charge. It is no evidence or proof of a defendant's guilt.

Each of the defendants has pleaded not quilty. Therefore, the Government has the burden of proving the charges against each defendant beyond a reasonable doubt. It is a burden that never shifts and remains upon the Government throughout the entire trial. A defendant does not have to prove his innocence. On the contrary, each defendant is presumed to be innocent of the accusations contained in the indictment.

The presumption of innocence was in each defend-

ant's favor at the start of the trial, continued in each defendant's favor throughout the trial and is in each defendant's favor even as I instruct you now. It remains in their favor during the course of your deliberations in the jury room. It is removed only if and when you are satisfied that the Government has sustained the burden of proving the guilt of the particular defendant you are considering beyond a reasonable doubt.

what is a reasonable doubt? It is a doubt based on reason, which arises from the evidence or lack of evidence in the case. It is a doubt that appeals to your reason, to your judgment, your common sense, such as would cause prudent men to hesitate to act in matters of importance to themselves. Reasonable doubt is not caprice, whim or speculation. It is not a doubt that you might conjure up to avoid the performance of an unpleasant duty. It is not sympathy for a defendant. Vague, speculative or imaginary qualms or misgivings are not reasonable doubts. However, a defendant is never to be convicted on mere suspicion or conjecture.

It is not necessary for the Government to establish the guilt of each defendant to a mathematical certainty or beyond all possible doubt. If that were the rule, few people, however guilty they might be, would ever be con-

victed. Thus, the law is such that in a criminal case it

is enough to convict if proof is presented that a defendant

is guilty beyond a reasonable doubt, not beyond all possible

doubt.

and contains sixteen counts or charges. Only four of the defendants who are named in the indictment are on trial before you. They are named in the following counts:

Victor Leong is named in Counts 1 and 6. Ernst
Olsen is named in Counts 1, 2, 11 and 14. Wong Chou Shek
is named in Count 1. Louie Yiu Che is named in Count 1.

Each count charges a separate crime and each defendant on each count must be considered separately by you. I have prepared a form of verdict. I have given copies to each of the attorneys in the case which sets forth the names of the respective defendants in the order they are named in the indictment and the counts on which they are charged. When you come to deliberate you should consider each defendant on each count separately.

whose guilt or innocence you must announce in your verdict, although, as I will explain to you shortly, in considering their guilt or innocence, you may have to determine the nature of the participation of others. In the determination

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of innocence or guilt, you must bear in mind that guilt is personal. The guilt or innocence of each defendant on trial before you must, as I have said, be determined separately with respect to him solely on the evidence presented against him or the lack of evidence.

Let us turn to the specific charges contained in the indictment as they pertain to the four defendants here on trial.

The first count charges a conspiracy. It charges that the defendants, Victor Leong, Ernst Olsen, Wong Chou Shek and Louie Yiu Che, together with other named defendants and co-conspirators, conspired to violate the Federal Narcotics Laws. I shall call this count the conspiracy count. Count 1 reads as follows:

"The Grand Jury charges:

"1. From or or about the 1st day of May, 1971, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York,; BING HIN LOW, LI CHI YING, also known as "Robert Li", WONG SHUE TEEN, also known as "Tony Wong", JOHNN CHAU, PAUL JANG, also known as "Communist Pui", VICTOR LEONG also known as "Foon Choy Leong", ERNST OLSEN, CONNY ANDRE GUSTAFSSON, STEINER FURU, ERIK MAX HANSEN, JOHN CHRISTIANSEN, ARNE ANDERSEN, BERNARD DALAN, LEE LOUIE, BILL FERN, WONG CHOU

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SHEK, also known as "Ah Wong", PON YOU WING, also known as "Ah Fu", GEORGE KAY LEW, also known as "Ah Kay", CHAN CHEUNG, ENG FONG, LAM SHING, WEE SIK MOY, also known as "Ah Siah", PHILIP CHOY TONG, ROLAND CHU and LOUIE YIU/CHE, also known as "Peter Louie", also known as "Louie Gin", the defendants, MA SSU T'SUNG, also known as "Ma", ANAKE YENSOOKSAKUL, TONY MA, also known as "Ah Ming", CHOU CHO CHOI, WONG SHING KONG, SZE CHUN KAM, LAM KIN SANG, JOHN STEFFEN THOMSEN, JIMMY PANG, also known as "Foo", CHAN YUK WO, also known as "Tony Chan", CHAN YUK SHUI, CHOW WAI HING, also known as "Hing Pang", DING SZE YIN, also known as "Jimmy Chan", GEORGE WONG, also known as "Yee Wing Shing", LOW BOK MON, also known as "Norman Low" and NG POY YEE named herein as co-conspirators, but not named as defendants, and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1), 841(b)(1)(A), 951(a)(1), 952(a), 953 (a)(1) and 960(a)(1) and 960(b)(1), of Title 21, United States Code.

"2. It was part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would import into the United States from places outside the United States, to wit, Thailand and Hong Kong, and elsewhere to the Grand Jury unknown, large quantities of

heroin, a Schedule I narcotic drug-controlled substance, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 841(a)(1)(A), 841(b)(1)(A),951(a)(1) 952(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

"3. It was further part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would export from the United States to places outside the United States, to wit, Canada, large quantities of heroin, a Schedule I arcotic drug-controlled substance, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 841(a)(1), 841(b)(1)(A), 953(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

"4. It was further part of said conspiracy that the said defendants and co-conspirators unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I narcotic drug-controlled substances, the exact amount thereof being to the Grand Jury unknown, in violation of Section 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code."

"The Defendants and Co-Conspirators\*

"The Sources of Supply

"1. Co-conspirators Ma Ssu T'Sung, a/k/a, 'Ma',

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Tony Ma, a/k/a 'Ah Ming' and Anake Yensooksakul were suppliers of heroin in and around the city of Bangkok, Thailand.

## "The Controller

"2. Co-conspirator Wong Shing Kong established and controlled a heroin distribution network from Bangkok, Thailan!, to the United States and Canada.

## "The Smugglers

"3. Defendants Ernst Olsen, Conny Andre

Gustafseon, Steiner Furu, Erik May Hansen, John Christiansen,

Arne Andersen" --

MR. KEEGAN: You made a ruling with respect to this section.

THE COURT: I thought we eliminated the caption.

MR. SINGER: We eliminated the entire thing, your Honor.

THE COURT: We took out the caption.

Let me get the redacted indictment and I will work from it and explain something to the jury.

Ladies and gentlemen, you will consider the paragraphs which I read previously enumerated 1 through 4.

Please disregard all the statements which I made after I said the words, "The defendants and co-conspirators." I read from a portion of the indictment that I had eliminated from your consideration and therefore I request that anything

I said in the last moment or two involving certain people
after I quoted the words "The defendants and co-conspirators,"
should be eliminated from your consideration and not be
considered by you at all.

when, as and if you request a copy of the indictment, those words which I spoke will not be contained and the sections which I read should be disregarded.

Government in the indictment alleges a series of overt
acts starting out, "In pursuance of the said conspiracy and
to effect the objects thereof, the following overt acts were
committed in the Southern District of New York and elsewhere."
There then follow a total of what originally were 79 overt
acts and we agreed to eliminate one, so there are actually
78 enumerated overt acts which are set forth in the indictment. I will return to the overt acts somewhat later in my
charge and rather than read them twice I will note now that
I have read a portion of Count 1 but have left for later
reading the overt acts alleged by the Government. I will
come back to them.

The remaining counts, and now I speak of Counts

2, 6, 11 and 14, are called the substantive counts. Those
that pertain to the defendants here on trial are the second
count, which charges:

"On or about the 26th day of August, 1971 in the Southern District of New York, Ernst Olsen, the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute a Schedule I narcotic crug controlled substance, to wit, approximately 5,250 grams of heroin. (Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)."

The sixth count charges:

"On or about the 16th day of September, 1971 in the Southern District of New York, Victor Leong, a/k/a
'Poon Choy Leong', the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 250 grams of heroin. (Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)."

The eleventh count charges:

"On or about the 3rd day of December, 1971 in the Southern District of New York, Ernest Olsen, the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 3,500 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)."

Finally Count 14, which charges:

"On or about the 8th day of March, 1972 in the Southern District of New York, Ernest Olsen, the defendant, unlawfully, wilfully and knowingly did possess with Interest to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately 9,450 grams of heroin. (Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)."

Wong Chou Shek and Louie Yiu Che are not named in any of the substantive counts. I shall discuss the conspiracy count, which I referred to a few moments ago, and the substantive counts, which I have just read to you separately.

Turning to the conspiracy charge, a conspiracy to commit a crime is an entirely separate and different offense from the substantive crime which is the objective of the conspiracy. The essence of the crime of conspiracy is an agreement or understanding to violate other laws, and an act done to carry out that unlawful agreement.

The Federal Narcotics Law which the defendants are charged with conspiring to violate in the conspiracy count and which Victor Leong and Ernst Olsen are charged with actually having violated in the substantive counts is the Comprehensive Drug Abuse Prevention Act of 1970, which I shall sometimes hereafter refer to as "The Act."

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In the Act narcotic drugs, including heroin, are referred to as "Controlled substances." Among other things, the Act makes it unlawful for any person to knowing) or intentionally distribute or possess with intent to distribute heroin, or to import or export heroin to or from the United States.

In order to find any of the defendants guilty under the conspiracy count you must find beyond a reasonable doubt:

on or about May 1, 1971 to March 5, 1975, a conspiracy existed as charged in the indictment; that is, in plain language, an agreement existed between at least two of the defendants and co-conspirators to violathose provisions of law which prohibit the importation, exportation, possession and distribution of heroin;

Second: That each defendant knowingly and wilfully joined the conspiracy; and,

Third: That at least one of the conspirators committed at least one of the overt acts set forth in the indictment, at or about the time and place alleged.

what is a conspiracy? A conspiracy is a combination, or agreement, of two or more persons to accomplish by concerted action a criminal or unlawful purpose, or some

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purpose not in itself criminal or unlawful, by criminal or unlawful means.

The gist of the crime of conspiracy is the unlawful combination or agreement to violate the law. Whether or
not the defendants accomplished what it is alleged they
conspired to do is immaterial to the question of guilt or
innocence.

A conspiracy has sometimes been called a partnership in criminal purpose in which each member becomes the
agent of every other member. However, to establish a conspiracy, the Government is not required to show that two
or mome persons sat around a table and entered into a solemn
compact, orally or in writing, stating they have formed a
conspiracy to violate the law, setting forth the details
of the plan, the means by which the unlawful project is to
be carried out, or the part to be played by each conspirator.
Indeed, it would be extraordinary if there were such a formal
document, or specific oral agreement.

Your common sense will tell you that when people in fact undertake to enter into a criminal conspiracy, much is left to unexpressed understanding. Conspirators do not usually reduce their agreements to writing or acknowledge them before a notary public, nor do they publicly broadcast their plan.

...

Thus, it is sufficient if two or more persons, in any manner, through any contrivance, impliedly or tacitly, come to a common understanding to violate the law. Express language or specific words are not required to indicate assent or attachment to a conspiracy.

In this connection, it is not necessary for the Government to prove the success of the conspiracy in order to establish a violation of the conspiracy statute. As a conspiracy is basically an agreement to violate the law, it may exist even though the final objectives were never accomplished, although in this case the Government alleges that a number of the objectives of the conspiracy were successfully realized.

In determining whether there has been an unlawful agreement, you may judge the acts and conduct of the alleged members of the conspiracy which are done to carry out an apparent criminal purpose. Usually, the only evidence available is that of disconnected acts on the part of the alleged individual conspirators, which acts, however, when taken together in connection with each other and with the reasonable inferences drawn therefrom, show a conspiracy or agreement to secure a particular result as satisfactorily and conclusively as more direct proof.

If upon such consideration of all the evidence,

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you find beyond a reasonable doubt that the minds of the alleged conspirators met in an understanding way and that they agreed, as I have explained a conspiratorial agreement to you, to work together in furtherance of the unlawful scheme alleged in the indictment -- in other words, to attain the objectives of a conspiracy -- then proof of the existence of the conspiracy is established.

In Count 1 the defendants are charged with a conspiracy to violate the Federal Narcotics Laws by agreeing to import heroin to, and export heroin from, the United States, and to possess the heroin with the intent to distribute it in the United States. In order to find the defendants guilty of the conspiracy charged in Count 1 of the indictment, you must find that the violations of the Federal Narcotics Laws, as I have just described them to you, were objectives of the conspiracy.

Specifically, the Government claims that the overall objectives of the conspiracy were to import large quantities of heroin from Thailand into the United States and then distribute that heroin from a number of main distribution points, including New York City, San Francisco and Vancouver, British Columbia.

Once satisfied that the conspiracy charged existed,

whether each defendant on trial before you was a member of the conspiracy you should consider whether on all the evidence that defendant knowingly and purposely entered the conspiracy.

In determining whether each defendant became a member of the conspiracy, you must determine not only whether he participated in it but whether he did so with knowledge of its unlawful purpose. Did he join with awareness of at least some of the basic aims and purposes of the conspiracy? For example, the Government acknowledges that Louie Yiu Che did not take any active role in actually importing the heroin, but alleges that he purchased some of the heroin that was imported. If you find that he purchased some of the imported heroin on a number of occasions from other members of this conspiracy, then you may find that he was aware of the distribution part of the conspiracy, which would make him a participant in the conspiracy.

knowledge is a matter of inference from facts proved. It is not necessary, though, that a defendant be fully informed as to the details of the scope of the conspiracy in order to justify any inference of knowledge on his part. To have guilty knowledge, the defendant need not know the full extent of the conspiracy and all of its activities and actors.

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I want to caution you that mere association with one or more of the conspirators does not make one a member of the conspiracy. Nor is knowledge without participation sufficient. What is necessary is that a defendant participate with knowledge of at least some of the purposes of the conspiracy and with intent to aid in the accomplishment of those unlawful ends.

member of the conspiracy from its very start. He may join it at any point during its progress and be held responsible for all that has gone on before he joined and all that may be done thereafter, so long as he remains a member of the conspiracy. Simply stated, and using the partnership analogy again, by becoming a partner in the criminal enterprise he assumes all the liabilities of the partnership including those that occurred before he became a member.

with all the other members of the conspiracy. They may not have previously associated together. One of the defendants may know only one other member of the conspiracy, but if he enters into an unlawful agreement with that other member of the conspiracy, he becomes a party thereto. To use Louie Yiu Che as an example again, the Government contends that Louie Yiu Che received his heroin from other defendants

and alleged co-conspirators. The Government concedes that he was not acquainted with many of the other co-conspirators such as Ma Ssu T'Sung, the supplier in Thailand. Should you find that he entered into an unlawful agreement to obtain heroin from other defendants and alleged co-conspirators, then he is a member of the overall conspiracy.

Once a person is found to be a member of the conspiracy, he is presumed to continue his membership until its termination, unless there is affirmative proof offered of withdrawal or disassociation.

able doubt that the conspiracy alleged in the indictment was knowingly and wilfully formed and that the defendant you are considering knowingly and wilfully became a member of the conspiracy with knowledge of at least some of its unlawful purposes as charged, then you must consider whether the Government has established beyond a reasonable doubt the third element of the crime; that is whether at least one of the other acts as charged in the indictment was committed by at least one of the co-conspirators in furtherance of the objectives of the conspiracy.

The reason the law of conspiracy requires an overt act is because a person might agree to commit a crime against the United States and then change his mind.

In such as case there is no crime.

Before there can be crime, one or more of the conspirators must have taken one step or performed at least one single act which moved directly toward carrying out the unlawful intent to commit the crime. The overt act need not be a criminal or an unlawful act in and of itself, but it must be an act done to effect the object of the conspiracy to violate the law.

must prove to you beyond a reasonable doubt only that one of the overt acts was committed by one or more of the conspirators in the Southern District of New York. In that regard, I instruct you that the Borough of Manhattan is in the Southern District of New York. One overt act in this District by any member of the conspiracy is sufficient.

"Overt act" means an act committed or caused to be committed by any member of the conspiracy in an effort to accomplish some object or purpose of the conspiracy.

I will now read you the overt acts charged in the indictment.

## "OVERT ACTS

"In pursuance of the said conspiracy and to
effect the objects thereof, the following overt acts were
committed in the Southern District of New York and elsewhere:

	38 mcs: 2307
:	"1. On or about June 1, 1971, at the Rusami
	Jewelry Store, Bangkok, Thailand, Ma Ssu T'Sung, a/k/a "ma'
	agreed to supply Wong Shing Kong with large quantities of
	heroin to be distributed in the United States.
	"2. On or about June 4, 1971, Errat Olsen met
	Wong Shing Kong in Bangkok, Thailand, and agreed to transport
•	heroin from Bangkok, Thailand to the United States.

- "3. On or about June 6, 1971, in Bangkok,
  Thailand, Anake Yensoosakul attempted to place 10,500 grams
  of heroin and 105 pounds of opium on board the M.S. Clifford
  Maersk.
- "4. On or about June 6, 1971, in Bangkok,
  Thailand, Wong Shing Kong received 10,500 grams of heroin
  and 105 pounds of opium from Ma Ssu T'Sung, a/k/a 'Ma' and
  Anake Yensoosakul.
- "5. On or about June 9, 1971, Wong Shing Kong flew from Bangkok, Thailand to Hong Kong.
- "6. On or about June 14, 1971, Ernst Olsen arrived in Tokyo, Japan.
- "7. On or about August 14, 1971, Wong Shing Kong had a conversation with Ma Ssu T'Sung, a/k/a 'Ma' in Hong Kong.
- "8. On or about August 16, 1971, Ernst Olsen visited the United States Consulate in Hong Kong.

"9. On or about August 26, 1971, Truy Ma, a/k/a 'Ah Ming', drove Wong Shing Kong, Ernst Olsen and four suitcases containing approximately 10,500 grams of heroin to the airport in Bangkok, Thailand.

\*10. On or about August 26, 1971, Ernst Olsen, carrying approximately 5,250 grams of heroin, contained in two suitcases, registered at the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.

"11. On or about August 27, 1971, Ernst Olsen delivered approximately 5,250 grams of heroin to Lam Kin Sang at the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.

"12. On or about August 27, 1971, Lam Kin Sang purchased a scale at the 5 & 10 Cents Store on Bowery Street, New York, New York.

"13. On or about August 28, 1971, Lam Kin Sang delivered approximately 500 grams of heroin to Lee Louie in the "1 Club at 1 East Broadway, New York, New York.

"14. On or about September 3, 1971, Ernst Olsen checked out of the George Washington Hotel, 23rd Street and Lexington Avenue, New York, New York.

"15. On or about September 5, 1971, Wong Shing Kong rented a house on Soi Papanit (Street), Bangkok, Thailand.

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"16. On or about September 6, 1971, Lam Kin
Sang delivered approximately 500 grams of heroin to Lee
Louis in the #1 Club at 1 East Broadway, New York, New York.

"17. During the week of September 12, 1971,

Lam Kin Sang delivered approximately 500 grams of heroin to

Lee Louie in the #1 Club at 1 East Broadway, New York, New

York.

"18. On or about September 10, 1971, Low Bok
Mon, a/k/a/ 'Norman Low' received approximately 1,000 grams
of heroin from Lee Louie and delivered it to Bill Fern in
New York, New York.

"19. On or about September 10, 1971, Bill Fern arrived in Chicago, Illinois.

"20. On or about September 16, 1971 Victor

Leong, a/k/a/ 'Foon Choy Leong' registered at the George

Washington Hotel, 23rd Street and Lexington Avenue, New

York, New York, and thereafter received approximately 250

grams of heroin from Lam Kin Sang at the Gung On Association

Gambling House, in New York, New York.

"21. On or about October 2, 1971, in Bangkok,
Thailand, Wong Shing Kong, Conny Andre Gustafsson and Ernst
Olsen delivered approximately 7,000 grams of heroin and
105 pounds of opium to Steiner Furu on board the M. S.
Thomas Maersk, which sailed for the United States on

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6 1	October	3,	1311

- \*22. In or about early October, 1977. Lam Kin Sang, in possession of approximately 2,000 grams of hercin, registered at the Holiday Inn at 750 Kearney Street, San Francisco, California.
- "23. In or about early October, 1971, Lam Kin Sang went to the Dai Loy Gambling House, 614B Jackson Street, San Francisco, California, where he had a conversation with Wong Chou Shek, a/k/a 'Ah Wong', Pon You Wing, a/k/a 'Ah Fu' and George Kay Lew, a/k/a 'Ah Kay'.
- "24. In or about early October, 1971, Lam Kin Sang delivered approximately 1,000 grams of heroin to George Kay Lew, a/k/a 'Ah Kay' at the Holiday Inn at 750 Kearney Street, San Francisco, California.
- "25. In or about early October 1971, Lam Kin Sang delivered approximately 1,000 grams of heroin to Pon You Wing, a/k/a 'Ah Fu' at the Holiday Inn at 750 Kearney Street, San Francisco, California.
- "26. From in or about mid-October, 1971 to in or about mid-November, 1971 Wong Chow Shek sold approximately 2,500 grams of heroin to Louie Yiu Che, a/k/a 'Peter Louie', a/k/a 'Louie Gin' in San Francisco, California."

I intentionally omit alleged overt act No. 27.

\*28. From in or about mid-October, 1971 Lam Kin

Sang delivered approximately 500 grams of heroin to Lam Shing in New York, New York.

"29. In or about mid-October, 1971, Tony Ma, a/k/a 'Ah Ming' delivered approximately 4,200 grams of his own heroin and approximately 9,800 grams of heroin belonging to Ma Ssu T'Sung, a/k/a 'Ma' to Wong Shing Kong at Soi Papanit (Street), Bangkok, Thailand.

"30. On or about October 23, 1971, in Bangkok, Thailand, John Christiansen received approximately 7,000 grams of heroin and thereafter departed Bangkok, Thailand on board the M.S. Trein Maersk for the United States.

"31. On or about October 23, 1971, in Bangkok,
Thailand, John Steffen Thomsen received approximately
9,450 grams of heroin and thereafter departed Bangkok,
Thailand on board the M. S. Luna Maersk for the United States.

"32. On or about November 8, 1971, in Bangkok,
Thailand, Erik Max Hansen received approximately 8,400 grams
of heroin and thereafter departed Bangkok, Thailand on
board the M. S. Lica Maersk for the United States.

"33. On or about November 12, 1971 Victor Leong, a/k/a 'Foon Choy Leong' registered at the George Washington Hotel on 23rd Street and Lexington Avenue, New York, New York.

"34. On or about November 14, 1971, Ernst Olsen

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arrived in the United States on board Japan Airlines, Flight #002.

"35. On or about November 18, 1971, in Vancouver, Canada, Wong Shing Kong was introduced to Bing Hin Low by Li Chi Ying, a/k/a 'Robert Li.'

"36. On or about November 18, 1971, in Vancouver Canada, Bing Hin Low told Wong Shing Kong that he wanted 2,500 grams of heroin immediately, 5,000 additional grams of heroin before Christmas, 1971, and 5,000 grams of heroin per month thereafter.

"37. In or about late November, 1971, Lam Kin Sang delivered approximately 500 grams of heroin to Eng Fong at the Tung On Association in New York, New York.

and Conny Andre Gustafsson arrived in New York on board the M.S. Thomas Maersk and delivered 7,000 grams of heroin to Ernst Olsen, who, in turn, delivered it to Wong Shing Kong.

"39. In or about early December, 1971, Wong Chou Shek, a/k/a 'Ah Wong' telephoned Lam Kin Sang and advised him that Pon You Wing, a/k/a 'Ah Fu' would come to w York to pick up an unspecified quantity of heroin.

wing, a/k/a 'Ah Fu' received approximately 2,000 grams of heroin from Lam Kin Sang at the Kew Motor Inn, Queens, New

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2	York.
3	*41. On or about December 3, 1971, Ernst Olsen
4	met Johnny Chau in Toronto, Canada and thereafter flew to
5	Vancouver, Canada to deliver approximately 3,500 grams of
6	heroin to Li Chi Ying, a/k/a 'Robert Li.'
7	"42. On or about December 7, 1971, in Vancouver,
8	Canada, Wong Shing Kong met with Li Chi Ying, a/k/a 'Robert
9	Li', Johnny Chau, Bing Hin Low and Wong Shue Teen, a/k/a
10	'Tony Wong.'
11	"43. On or about December 8, 1971, Lam Kin
12	Sang arrived in Vancouver, Canada, where he met Victor Leong,
13	a/k/a 'Foon Choy Leong' and Paul Jang, a/k/a 'Communist
14	'Pui.'
15	"44. On or about December 8, 1971, in Vancouver,
16	Canada, Wong Shing Kong and Li Chi Ying, a/k/a/ 'Robert Li'
17	delivered approximately 2,500 grams of heroin to Bing Hin
18	Low.
19	"45. On or about December 9, 1971, in Vancouver,
20	Canada, Paul Jang, a/k/a 'Communist Pui' purchased approxi-
21	mately 1,500 grams of heroin from Lam Kin Sang.
22	"46. On or about December 15, 1971, in San

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Francisco, California, Wong Chou Shek, a/k/a 'Ah Wong' and

Pon You Wing, a/k/a/ 'Ah Fu' possessed approximately 500

grams of heroin with intent to distribute.

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"47. On or about December 19, 1971, Wong Shing Kong had a telephone conversation with Wong Chou Shek, a/k/a 'Ah Wong'.

"48. On or about December 21, 1971, Wong Shing Kong and Ernest Olsen left the United States.

"49. On or about December 24, 1971, in Bangkok,
Thailand, Wong Shing Kong delivered a sum of money to Ma
Ssu T'Sung, a/k/a 'Ma.'

"50. On or about December 25, 1971, John Steffen Thomsen, in possession of approximately 9,450 grams of heroin, arrived in New York on board the M. S. Luna Maersk.

"51. In or about late December, 1971, Wee Sik Moy, a/k/a 'Ah Siah' possessed approximately 500 grams of heroin with intent to distribute.

"52. In or about the last of December, 1971 Ernst Olsen flew to Vancouver, Canada.

\*53. On or about January 2, 1972, Arne

Andersen arrived in Vancouver, C.nada and delivered approximately 7,250 grams of heroin to Ernst Olsen and Li Chi Ying,

a/k/a 'Robert Li'.

"54. On or about January 6, 1972, Erik Hansen, in possession of approximately 8,400 grams of heroin, arrived in New York on board the M.S. Lica Maersk.

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2	"64. On or about March 8, 1972, Ernst Olsen
3	and Lam Kin Sang delivered approximately 9,450 grams of
4	heroin to an apartment at 60 East Broadway, New York, New
5	York.
6	"65. On or about March 13, 1972, in Hong Kong,
7	John Steffen Thomsen received approximately 8,400 grams
8	of heroin from Steiner Furu and Wong Shing Kong.
9	"66. On or about March 14, 1972, Arne Andersen
10	delivered approximately 7,250 grams of heroin to Sze Chun
11	Kam in Vancouver, Canada.
12	*67. In or about the latter part of March, 1971,
13	in Bangkok, Thailand, Wong Shing Kong received approximately
14	52,500 grams of heroin from Ma Ssu T'Sung, a/k/a 'Ma',
15	Tony Ma, a/k/a 'Ah Ming' and Chou Cho Choi.
16	"68. On or about March 21, 1972, Steiner Puru
17	delivered approximately 7,250 grams of heroin to Sze Chun
18	Kam in Vancouver, Canada.
19	*69. In or about the latter part of March, 1972
20	Lam Kin Sang delivered approximately 500 grams of heroin
21	to Chan Cheung in New York, New York.
22	"70. In or about the latter part of March, 1972

On or about April 4, 1972, in New York,

Lam Kin Sang delivered approximately 250 grazus of heroin

to Char Cheung in New York, New York.

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New York, Jimmy Pang, a/k/a 'Foo' sold approximately 444 grams of heroin to an undercover agent of the Bureau of Narcotics and Dangerous Drugs.

\*72. On or about April 7, 1972 Bernard Dalan arrived in Vancouver, Canada and delivered approximately 7,250 grams of heroin to Wong Shing Kong and Sze Chun Kam.

"73. On or about April 11, 1972, in New York,
New York, Jimmy Pang, a/k/a 'Foo', Chow Wai Hing, a/k/a 'Hing
Pang', Ding Sze Yin, a/k/a 'Jimmy Chan', Chan Yuk Wo, a/k/a
'Tony Chan' and Chan Yuk Shui possesses approximately 2,017
grams of, heroin with intent to distribute.

"74. On or about April 12, 1972, in New York,
New York Lam Kin Sang, Chan Yuk Wo, a/k/a 'Tony Chan' and
Chan Yuk Shui possessed approximately 2,617 grams of heroin
with intent to distribute.

"75. On or about April 15, 1972, Wong Shing Kong and Bing Hin Low arrived in Hong Kong and met Wong Shue Teen,

\*76. On or about April 19, 1972, John Steffen
Thomson arrived in New York with approximately 8,400 grams
of heroin on board the M.S. Luna Maersk.

"77. On or about July 19, 1972, Conny Andre Gustafsson delivered approximately 7,250 grams of heroin to Ernst Olsen in Montreal, Canada.

"78. On or about December 24, 1972, John Steffen Thomsen possessed approximately 8,400 grams of heroin in Brooklyn, New York with intent to distribute.

"[Title 21, United States Code, Section 846 and 963.]"

If you find that a conspiracy existed, it is not essential that the Government prove it began or ended on the specific dates set forth in the indictment. Indeed, in the present case the Government's proof, as I recall it, ended in December of 1972. Of course, it is your recollection which governs.

It is sufficient if you find that in fact a conspiracy was formed and existed for some substantial time within the period set forth within the indictment and that at least one of the overt acts was committed in furtherance of the conspiracy within that period.

as I have told you, when people enter into a conspiracy to accomplish an unlawful purpose, they become agents for one another in carrying out the conspiracy.

Hence, the acts or declarations of one in the course of the conspiracy and in furtherance of the common purpose are deemed to be the acts of all, and all are responsible for such acts.

Accordingly, if you are satisfied that a con-

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spiracy existed, then the acts, statements and declarations made in furtherance of the conspiracy by any person during its pendency are considered the acts, statements and declarations of all other members even though they were not present when made and even though such acts or statements or declarations may have taken place and been made prior to a member's entry into the conspiracy, and even though such acts and statements and declarations were made in his absence and without his knowledge. In other words, every co-conspirator is fully responsible for what every other co-conspirator does in furtherance of the conspiracy, whether he knows about it or not and whether he specifically approved of it or not.

It is important to note that this principle applies only to acts and declarations done or made during the continuance of the conspiracy and in furtherance thereof, that is, to carry out an unlawful objective or purpose of the conspiracy. It does not apply to acts or declarations which do not have these characteristics.

In sum, on the conspiracy count, in order to convict the defendant whose guilt or innocence you are considering you must find:

(1). The existence of a conspiracy which had as its objective the unlawful purpose charged, and,

(2). A knowing participation in that conspiracy by the particular defendant you are considering; and

(3). The occurrence of any overt act in the Scuthern District of New York, whether performed by that defendant or one of his co-conspirators.

The defendants contend here that the Government has failed to prove a conspiracy. Alternatively, they contend that at best the Government has proved separate conspiracies involving various of the defendants. Proof of several separate and independent conspiracies is not proof of the single, overall conspiracy as charged in the indictment, and if you find that the Government has failed to prove the existence of only one conspiracy, you must find the defendants not guilty.

In determining whether there was a single, overall conspiracy, you may consider what the evidence shows as to charges of personnel and activity. You may find a single conspiracy, even though there were changes in personnel and activity, provided you find that some of the conspirators continued throughout the length of the conspiracy and that the purposes of the conspiracy continued to be those charged.

The fact that the parties are not always identical doesn't mean that there are separate conspiracies. In other words, if at all times the alleged conspiracy had

the same overall primary purpose and the same nucleus of participants, the conspiracy would be the same basic scheme, even though in the course of its operation additional conspirators joined in and performed additional functions to carry out the scheme while others were not active or had terminated their relationship.

On the other hand, if you find that one overall conspiracy terminated and another was formed, you may not find a single conspiracy even though the purposes of both conspiracies were the same and that some of the defendants were members of both.

In essence, the question is, what is the nature of the agreement? That is for you to determine after examining all the evidence.

Turning now to the substantive counts, as I

pointed out earlier, the defendant Victor Leong is named
in Count 6; the defendant Ernst Olsen is named in Counts 2,

11 and 14. Wong Chou Shek and Louie Yiu Che are not named
in any substantive counts.

The statute which Victor Leong and Ernst Olsen are alleged to have violated in Counts 2, 6, 11 and 14 is Section 841 of Title 21, United States Code. That section reads, in pertinent part, as follows:

"...it shall be unlawful for any person knowingly

or intentionally to...distribute or...possess with intent to...distribute...a controlled substance..."

In order to find Leong or Olsen guilty of the crimes charged in the counts in which they are named, you must be convinced perond a reasonable doubt:

First, that on or about the dates set forth in each count, in the Southern District of New York, the defendant charged in that count possessed with intent to distribute a narcotic drug controlled substance;

Second, that he did so unlawfully, wilfully and knowingly; and

Third, that the substance he so possessed was in fact a narcotic drug controlled substance. Specifically, we are talking about heroin.

As to the first element, "Possession with intent' to distribute," the word possession has its common, every-day meaning, that is to have scmething in your control.

with respect to the first element of the substantive charge, in addition to finding possession, you must find beyond a reasonable doubt that at the time of possession the defendant you are considering, whether it be Mr. Leong or Mr. Olsen, had the intent in his mind to distribute the heroin. The term distribute is defined in the law to mean to deliver a substance. The Government

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contends, and you may find, that as a matter of common sense heroin in such large quantities as has been testified to in this case was for delivery or distribution and not for the personal use of the defendant.

On this element, the Government further contendsthat it has proved beyond a reasonable doubt that the
defendants knowingly transferred the drug. The Government
relies on the evidence adduced that certain of the defendants
transferred heroin to or from witnesses who have testified
in this trial.

If you find beyond a reasonable doubt that such transfers were made, I charge you that each such transfer satisfied the distribution requirement of the statute.

As to the second element, the terms "unlawfully, wilfully and knowingly" mean that you must be satisfied beyond a reasonable doubt that the defendents knew what they were doing and that they did it deliberately and voluntarily as opposed to mistakenly or accidentally or as a result of some coercion. Of course, it is not necessary that the defendants knew they were violating any particular law. Rather, it is sufficient if you are convinced beyond a reasonable doubt that they were aware of the general, unlawful nature of their acts.

Knowledge and intent exist in the mind. Since

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it is not possible to look into a man's mind to see what went on, the only way you have for arriving at a decision on these questions is for you to take into consideration all of the facts and circumstances, and determine whether the requisite knowledge and intent were present at the time in question. Direct proof is unnecessary. Knowledge and intent may be inferred from all the surrounding circumstances.

Counts 2, 6, 11 and 14 charge that the narcotic drug controlled substance was heroin. I instruct you as matter of law that heroin is a narcotic drug controlled substance. However, you must still find beyond a reasonable doubt that the substance in question was heroin.

The Government did not produce with respect to

Counts 2, 6, 11 and 14 the heroin allegedly possessed and

transferred. Just as with any other element of the crime,

the existence of the heroin may be proved by what we all

circumstantial evidence. There need be no sample placed

before the jury, nor need there be testimony by chemists

as long as the evidence furnishes a basis for inferring

that the material in question was heroin. The Government

relies on the testimony of Wong Shing Kong, Lam Kin Sang,

Jimmy Ding, John Thomsen and Sze Chun Kam, among others,

who participated in these transactions. Thus, the Government

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offers circumstantial proof -- the secrecy with which the transactions were handled, the fact that the substance in which they were dealing was a white, powdered, substance, the high prices paid for the substance and the lack of complaint on the part of the purchasers -- to establish that the materials in question were narcotic drugs, specifically heroin.

The Government did offer, however, a number of pounds of heroin which had been seized from John Thomsen in the specially made suitcases in December, 1972, and since it all came from the same source, the Government contends that the substances that Victor Lecng and Ernst Olsen are charged with actually possessing were indeed heroin.

appraise the credibility of the witnesses? You use your own plain, everyday common sense. You have seen the witnesses. You have observed the manner of their testifying, and whatever credit you may give their testimony must be determined by their conduct and their manner of testifying and their relationship or interest in the outcome. In other words, you apply your common sense and everyday experience. You may, of course, take into consideration the interest of a witness. An interested witness is not necessarily unworthy of belief. It is a factor, however, which you may consider

in determining the weight and credibility to be given to his testimony.

If any witness has wilfully testified falsely to any material fact, you may disregard all his testimony or accept such part of it as you deem worthy of belief or as it appeals to your reason or judgment.

A witness may be discredited or impeached by contradictory testimony, or by evidence that at other times the witness has made statements which are inconsistent with his present testimony. If you believe that any witness has been impeached and thus discredited, it is your exclusive province to accept the testimony of that witness or reject the testimony of that witness or to give the testimony of that witness whatever weight you think it deserves.

Sang, Sze Chun Kam, John Thomsen and Pon You Wing, among others, as witnesses at the trial. By their own testimony each was an accomplice in the crimes charged against the four defendants here on trial.

In the prosecution of crime, the Government is frequently called upon to use witnesses who are accomplices. It must use such testimony because otherwise it would be difficult or impossible to detect or prosecute wrong doers. This is particularly so in cases of conspiracy. Frequently

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evidence which is relevant to and important in a case.

There is no requirement in a Federal Court that the testimony of an accomplice be corroborated. That is supported by other evidence. In the Federal Courts, a conviction may rest upon the uncorroborated testim ny of an accomplice, if you believe it and find it credible. It should be pointed out, however, that here the Government does claim that it has offered substantial independent proof and corroboration from other witnesses.

The fact that a witness is an accomplice should be considered by you as bearing upon his credibility. However, it does not follow that because a person has acknowledged participation in the crime charged against a defendant, he is not capable of giving a truthful version of what happened. His testimony, however, should be viewed with caution as scrutinized carefully. Ask yourselves the question, was the witness' testimony inspired by any motive of reward, of self-interest, bias or prejudice or hostility to the defendants so that he gave false or colored testimony against them? If you find that it was, you may reject it.

I further instruct you that the testimony of a person who admitted prior false testimony should be

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if after a cautious and careful examination of a witness'
testimony and his demeanor upon the witness stand you are
satisfied that he told the truth as to certain events,
you may accept it as credible and act upon it accordingly.

You may not draw any inference, favorable or unfavorable, towards the Government or the defendants on trial from the fact that certain persons were not named as defendants and are not on trial before you now. Those matters are wholly outside your concern and have no bearing on your function as jurors.

Evidence that a witness has been convicted in the past of certain crimes may be considered by you in determining that witness' credibility. By this I mean you may consider the prior convictions in determining that witness' worthiness of belief.

The law does not compel a defendant in a criminal case to take the witness stand to testify, and no presumption of guilt may be raised and no inference of any kind may be drawn from the failure of a defendant to testify.

where a defendant has offered evidence of good general reputation for truth and veracity, honesty and integrity, or as a law abiding citizen, the jury should consider such evidence along with all the other existance in

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the case.

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Evidence of a defendant's reputation inconsistent and veracity, or honesty and integrity, or as a law abiding citizen, has not been discussed; or that those traits of the defendant's character have not been questioned, may be sufficient to warrant an inference of good reputation as to those traits of character.

Evidence of a defendant's reputation, inconsistent with those traits of character ordinarily involved in the commission of the crime charged may give rise to a reasonable doubt, since the jury may think it improbable that a person with good character with respect to those traits would not commit such a crime.

You will always bear in mind that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

The burden is upon the Government to prove each and every charge against each defendant beyond a reasonable doubt.

You may have heard me refer to direct evidence and circumstantial evidence and it is well to explain now the difference between these two types of evidence.

Direct evidence is where a witness testifies to what he saw occur or observed, what he knows of his own knowledge, something which comes to him by virtue of his

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own senses.

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and circumstances from which one may infer connected facts which reasonably follow in the common experience of mankind. Stated somewhat differently, circumstantial evidence is that evidence which tends to prove a disputed fact by proof of other facts which may have a logical tendency to lead the mind to a conclusion that those facts exist which are sought to be established.

Circumstantial evidence, if believed, is of no less value than direct evidence, for in either case you must be convinced beyond a reasonable doubt of the guilt of the defendant.

Let us take one simple example, one which is often used in this courthouse:

We will assume that when you entered the courthouse this morning the sun was shining brightly and it was a clear day. There was no rain.

Now, assume that in the courtroom the blinds have been drawn and there are drapes over the windows which are closed so that you cannot look outside. Assume that you are sitting in your jury box and despite the fact that it was sunny and dry when you entered the building, somebody walks in through the door with an umbrella dripping water,

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followed in a short time by someone else wearing a raincoat and the raincoat is dripping water.

Taking our assumptions, you cannot look outside
to see whether it is raining or not, and if you are asked,
"Is it raining?" you cannot say you know it directly of
your own observation. But certainly upon the combination
of facts as I have given them, even though when you entered
the building it was not raining outside, it would be
reasonable and logical for you to conclude that it was
raining now.

That is about all there is to circumstantial evidence. You infer on the basis of reason and experience from an established fact the existence of some further fact.

As I have said, each defendant is entitled to have his guilt or innocence as to each of the crimes charged determined from his own conduct and from the evidence which applies to him as if he were being tried alone.

reasonable doubt of any of the crimes charged in the indictment, a verdict of guilty as to that count should be returned as to him. The guilt or innocence of any one defendant of any of the crimes charged should not influence
your verdict regarding the other defendants. You may find

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2332 63 mcsr either one, two, three or none of the defendants guilty. You may find one, two, three or all of the defendants not guilty.

I will conclude with these few final remarks.

Under your oath as jurors you may not allow the consideration of punishment which might be inflicted upon a convicted defendant to influence your verdict in any way or in any sense enter into your deliberations. Your function is solely to determine the guilt or innocence of each defendant upon the basis of the evidence which has been presented here before you.

If you find that the charges or some of the charges have not been proved beyond a reasonable doubt, that defendant should be acquitted on those charges. But, on the other hand, if you find that some or all of the charges have been proved beyond a reasonable doubt, you should not refuse because of sympathy or for any other reason to render a verdict of guilty on the charges which you find were proved beyond a reasonable doubt.

There are twelve people who will be going into the jury room to deliberate on this case. Any verdict must be the unanimous verdict of all of you. I will point out, however, that no one should enter into the deliberations; in the jury room with such pride of opinion that he or she

would refuse to change it if convinced by intelligent argument on the part of another juror or jurors that they are right.

However, you are not to do violence to your own well-founded opinion, your common sense and your good conscience.

As I said a few moments ago, your common sense is most important. You will be taking it into the jury room with you. I expect that when you come out of the jury room your good common sense will accompany you. You are entitled, each of you, to your opinion. In other words, each of you must dec de each of the charges against each of the defendants for himself or herself after thoroughly reviewing the evidence and exchanging views with your fellow jurors.

After you have exchanged your views you should vote on each of the charges as to each of the defendants. Your vote should be either guilty or not guilty. The vote will be kept by Mr. Santa Croce on the verdict form which Miss Kruger will now hand to him. This form states at the top, "Verdict." Then it bears the number of the case and on the left-hand side it lists the defendants and counts in the order in which they are named in the indictment. Right after the names are the numbers of the counts which are being submitted to you. To the right there are lines

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which indicate the counts relative to each of the defendants.

You should consider each defendant on each count separately and vote separately. In order for there to be a verdict on any count on any defendant the verdict must be unanimous.

Ladies and gentlemen, I have completed my charge. However, before sending you into the jury room to begin your deliberations I will see counsel at the side bar.

In the meantime, I will ask our four alternate jurors to get whatever belongings they have from the jury room and to return to their seats in the courtroom because after I send the jurors, 1 through 12, in to deliberate I would like to speak with the four alternate jurors. I want to thank them personally on behalf of all of us here for the service which they have rendered. I will excuse the four alternate jurors and direct them to gather up their belongings and then return to the courtroom. I will see counsel at the side bar.

[At the side bar:]

THE COURT: Mr. Kaufman, does the Government have any exceptions to the charge?

> MR. KAUFMAN: No, your Honor.

THE COURT: Turning to the afendants, and taking you in the order your clients were named, Mr. Keegan, do you INDICTMENT SOUTHERN DISTRICT (PENDING)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK UNITED STATES OF AMERICA,

-v-

PHANG AH SEONG, a/k/a Singapore Boss, WU LUNG KEI, YEUNG TAK, LIU SANG, CHEUNG LAM, a/k/a Ling Cheng, ERNST OLSEN, FLEMING SNITGAART, a/k/a Fleming Snegaart and KAR SWEDBERG, a/k/a Kai Hugo Svedberg,

Defendants.

## COUNT ONE

The Grand Jury charges:

1. From on or about the first day of January,

1968 and continuously thereafter up to and including
on or about June 30, 1970, in the Southern District
of New York and elsewhere, PHANG AH SEONG, a/k/a

Singapore Boss, WU LUNG KEI, YEUNG TAK, LIU SANG,
CHEUNG LAM, a/k/a Ling Cheng, ERNST OLSEN, FLEMING
SNITGAART, a/k/a Fleming Snegaart, and KAR SWEDBERG,
a/k/a Kai Hugo Svedberg, the defendants, and Wong
Shing Kong and Hedrick Cheung, named herein as coconspirators but not as defendants, and others to the
Grand Jury unknown, unlawfully, wilfully, intentionally
and knowingly combined, conspired, confederated and
agreed together and with each other to violate Sections
173 and 174 of Title 21, United States Code.

- 2. It was part of said conspiracy that the said defendants and co-conspirators, unlawfully, wilfully, intentionally and knowingly would import and bring into the United States large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, in violation of Sections 173 and 174 of Title 21, United States Code.
- 3. It was further a part of said conspiracy that the said defendants and co-conspirators, unlawfully, wilfully, intentionally and knowingly would receive, conceal, possess, buy, sell and facilitate the transportation, concealment and sale of large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

## OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about July, 1968, the defendant YEUNG

TAK introduced co-conspirator Wong Shing Kong to defenda. WU LUNG KEI, WU LUNG KEI being a person who could supply heroin.

- In or about September or October, 1968, coconspirator Wong Shing Kong received approximately
   pounds of heroin from defendant WU LUNG KEI in Singapore.
- or about November, 1968, the defendants

  ERNST OLSEN, FLEMING SNITGAART, a/k/a Fleming Snegaart

  and KAR SWEDBERG, a/k/a Kai Hugo Svedberg, and co
  conspirator Wong Shing Kong arrived in Brooklyn, New

  York, aboard the <u>licoline Maersk</u>, on which ship was

  concealed approximately thirty pounds of heroin.
- 4. In or about November or December, 1968, coconspirator Wong Shing Kong went to Penn Station in New York, New York, and from there travelled by train to Philadelphia, Pennsylvania.
- 5. In or about November or December, 1968, coconspirator Wong Shing Kong met defendant LIU SANG in Philadelphia, Pennsylvania.
- 6. In or about November or December, 1968, defendant LIU SANG introduced co-conspirator Wong Shing Long to defendant CHEUNG LAM, a/k/a Ling Cheng, in Philadelphia, Pennsylvania, CHEUNG LAM being a person interested in purchasing heroin.

- 7. In or about November or December, 1968, defendant CHEUNG LAM, a/k/a Ling Cheng, agreed to buy haroin from co-conspirator Wong Shing Kong at \$4,000 per pound.
- 8. In or about November or December, 1968, the defendants ERNST OLSEN, FLEMING SNITGAART, a/k/a Fleming Snegaart, and KAR SWEDBERG, a/k/a Kai Hugo Svedberg and co-conspirator Wong Shing Kong arrived in Philadelphia, Pennsylvania aboard the Nicoline Maersk.
- 9. In or about November or December, 1968, the defendants ERNST OLSEN, FLEMING SNITGAART, a/k/a Fleming Snegaart, and KAR SWEDBERG, a/k/a Kai Hugo Svedberg unloaded approximately seventeen pounds of heroin from the Nicoline Maersk and delivered said heroin to co-conspirator Wong Shing Kong in Philadelphia, Pennsylvania
- 10. In or about November or December, 1968, co-conspirator Wong Shing Tong delivered approximately seventeen pounds of heroin to defendant CHEUNG 4, a/k/a Ling Cheng, in Philadelphia, Pennsylvania.
- 11. In or about January, 1969, co-conspirator
  Wong Shing Kong delivered approximately thirteen pounds
  of heroin to defendants PHANG AH SEONG, a/k/a Singapore
  Boss, and WU LUNG KEI in Singapore.

12. In or about March, 1969, defendant CHEUNG
LAM, a/k/a Ling Cheng, gave co-conspirator Wong Shing
Kong \$6,000 in Philadelphia, Pennsylvania.

13. In or about January, 1970, defendant CHEUNG

LAM, a/k/a Ling Cheng and co-conspirator Hedrick Cheung

gave co-conspirator Wong Shing Kong \$1,000 in New

York, New York.

(Title 21, United States Code, Sections 173 and 174.)

s/ FOREMAN

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PAUL J. CURRAN
United States Attorney

	the defendant appeared in	person on this date		MONTH 12	16	*7:
COUNSEL	without counse		dvised defendant of right to by the court and the defendan			
	with counsel	Irving Katcher, Linda Steenstra	Fage interpretator co	ounsel)		
PLEA	GUILTY, and the co	urt being satisfied that s for the plea,	L NOLO CONTEN	DERE, NO	T GUILTY	
	There being a finding/verdi	ct of \ NOT GU	ILTY. Defendant is discha	rged		1
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KATCHER Peo. v. Dominick STATE OF NEW YORK : SS. COUNTY OF NEW YORK ) ROBERT BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 19 day of Harch 1976 deponent served the within - Appendix MXAX U.A. Atty. Southern Dist. of NY attorney(s) for Appellae in this action, at 1 St. Andrews Pl. NYC the address(es) designated by said attornay(s) for that purpose by depositing 8 true copies of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York. Sworn to before me, this 19

day of

1976

WILLIAM BAILEY

Notary Public, Stat e of New York

No. 43-0132945

Qualified in Richmond County

Commission Expires March 30, 1976